App. F. IX-4

1912.

File No. 312-12

Previous References (Courts)

Serial Nos. ~~one~~ 1

Later References

H.H. 373 16.11.42

Ch 160-62(1-33)/45-46.

Ch Reg. No. 439/45-46.

Ch Reg. No. 106/46-47

General and Revenue Secretariat.

Serial Nos ~~one~~

Manuscript **Part ~~A~~ for** May 1918

SUBJECT

Separation of Judicial from Executive Functions

G.O. No. J. 45-50-4600 of 10-5-1918. To Hon'ble Regr. Chief Court, Rev. Comr. S.S. of Police, Chief Engr. Bys, Cours & Drns, Comptroller, other Heads of Dept.

Sanctions the scheme for the separation of Judicial and executive functions in the State.

Manuscript Copy

2.2.17

C.S. 194
15.9.16.

G.R.S. 11] 1916.

GENERAL AND REVENUE SECRETARIAT.

(5 cents)

NOTES

File No. 312-12

FILE HEADING.

Separation of Judicial from Executive functions.

Subject

From

No.	Dated	Received.

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

Note by the Second Member

NOTES—First Sheet.

GPB—35,000—15-6-12

2

General and Revenue Secretariat. C/3 File No. 312 of 1912.

Serial No.

1. I have had under consideration for some time what is popularly known as the question of "the separation of Judicial from Executive functions." Besides reading the literature connected with the subject both in Mysore and in British India, I have had the advantage of discussing its various aspects with official and non-official gentlemen interested in it, as also of listening to the views of local officers and others at the Conference of Deputy Commissioners at Mysore in June last, and of non-official members at the last meeting of the Legislative Council.

2. As a result I have tried to evolve a workable scheme which, though it may not at once effect a complete separation, should go far towards meeting the growing sentiment in favour of such separation, and at the same time conduce to a prompter and more efficient administration of criminal justice by providing a whole-time agency for the trial of cases.

3. For convenience of examination, I have embodied my views in a draft Government Order, which should be read as part of this note, and to which I would invite attention for details.

The general outline of the scheme may be shortly indicated:

4. There is a strong feeling among local

2

NOTE—Contn. sheet.

GPB—20,000—30-6-15

G. R. S. 12]

General and Revenue Secretariat. | C/o File No. 312 of 1912.

Serial No.	
	officers against depriving Deputy Commissioners of their functions as District Magistrates. This feeling must, at any rate for the present, be respected, especially as at it will cause some inconvenience and dislocation of business if they are replaced entirely by a fresh set of officers. They may therefore continue to be District Magistrates in virtue of their position as Deputy Commissioners.
	5. For the disposal of original criminal work, however, a separate agency must be provided, namely -
	i) 8 Special First Class Magistrates, one for each District, who will also help District Magistrates in disposing of appeals;
	and ii) 19 Special Second Class Magistrates, to be located at convenient centres for the trial of second and third class cases.
	iii) Benches of Magistrates may also be constituted wherever practicable to take part in the trial of second and third class cases; and on such Benches a place may be found for duly qualified Special Sub Registrars.
3	
	6. Statistics of the work of the various

NOTE—Contn. sheet.

GPB—70,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat. | C6 File No. 312 of 1912.

Serial No.

Magisterial Courts in the State during the past official year have been obtained, and a suitable distribution of taluks among the special Second Class Magistrates suggested with a view to the approximate equalization of business, and, what is much more important, to the convenience of the local population in regard to distance. This I have found to be not altogether an easy matter. The distribution suggested is a tentative one, and may be modified as experience may suggest. District Magistrates will no doubt be able to make the work of these Magistrates as nearly equal as practicable by a system of transfers of cases.

Vide statistics tabulated, H A.

7. The above arrangement will allow of the withdrawal of criminal work from all Assistant Commissioners and Taluk officers. But for the sake of maintaining the "prestige" of Sub Divisional officers in the eyes of the public (a matter on which local officers lay much stress), they may continue to be pro forma First Class Magistrates without however exercising any criminal powers in practice except those referred to in Chapters VIII to XII of the Criminal Procedure Code which are essentially of an executive character.

4

8. One alternative proposal that was suggested

NOTE—Contn. sheet.

GPB—70,000—17-12-15

5

G. R. S. 12]

General and Revenue Secretariat. | File No. 3-12 of 1912.

Serial No.

to me in certain quarters, but which I did not consider to be quite feasible or expedient, was to multiply the number of Munsiffs and make them Magistrates in addition. The reasons for rejecting the suggestion are indicated in para 8 of the draft order.

9. I have not dealt with the question of recruitment, which is an important one and requires to be carefully considered. My own opinion at present is, that the new staff of Special Magistrates should, along with Munsiffs, Sub Judges and District Judges, form part of the Judicial Service; that this should be kept distinct from other Departments; and that selections to the lower ranks of the Judicial Department should be by means of a competitive examination, conducted by the Chief Court, to which a sufficient number of candidates previously nominated with the approval of Government should alone be admitted.

In any case it is desirable, if the proposed scheme is adopted, that appointments of Munsiffs and Sub Judges should be interchangeable with those of the new Special Magistrates, in order that officers trained in both civil and criminal work may be available for promotion to higher appointments in the Judicial Department. This point is touched upon in para 9 of the draft order, which also deals with the

5

NOTE—Contn. sheet.

GPB—70,000—17-12-15

G. R. S. 12]

General and Revenue Secretariat. | eb File No. 312 of 1912.

Serial No.		
	selection of the officers immediately required for the charge of the new Courts.	
	10. The total cost of the new scheme will be as shown below:-	Rs.
	Pay of 8 Special Magistrates of the First Class rising from Rs.500 to Rs.600 by biennial increments of Rs.50 -(8 x 550 x 12) =	52,800.
	Pay of 19 Special Magistrates of the Second Class rising from Rs.200 to Rs.400 by triennial increments of Rs.50 - (19 x 300 x 12)=	68,400
	Ministerial establishments of 8 First Class Magistrates' Courts at Rs.1,545 each	12, 360.
	--do-- do-- 19 Second Class Magistrates' Courts at Rs.1065 each.	20, 235.
	Menial Establishments of 27 Courts at Rs.348 each.	9, 396.
	Contingencies for 27 Courts at Rs.200 each.	5, 400.
	Total	1, 68, 591.
	Deduct:-	
	Pay of the 3 existing Full-time Magistrates of the First Class who will be absorbed in the new scheme, (calculated at the same rate as that of the new Special Magistrates of the First class). 3 x 550 x 12	19, 800.

NOTE—Contn. sheet.

GPB—20,000—30-6-15

G. R. S. 12]

General and Revenue Secretariat. | C/S File No. 312 of 1912.

Serial No.		
	And of their establishments -	
	(a) City Magistrate, Bangalore; Rs.2,276.	
	(b) City Magistrate, Mysore; Rs.2,081.	7,587.
	(c) Special Magistrate, Kolar Gold Fields; " 3,230.	
	Total. Rs.	27,387.
	Total cost of the scheme	Rs. 1,41,204.

11. The amount shown above represents only the apparent cost of the scheme. But in estimating the real or net extra cost, account must justly be taken, as pointed out in para 11 of the draft order, of the substantial reduction of which the scheme should, in ordinary circumstances, permit in the number of subordinate executive officers who are also now employed as Magistrates, (leaving District Treasury officers out of the calculation in the present connection).

Since on an average at least half the time of these officers is now taken up with criminal work, - not to speak of the time occupied by them in travelling to and from head quarters in connection with the postings of cases for trial, - it may be safely assumed that the effect of relieving them of criminal

NOTE—Contn. sheet.

GPB—70.000- 17-12-15

G. R. S. 12]

General and Revenue Secretariat. | Courts File No. 312 of 1912.

Serial No.	
	work will be to allow of a reduction by fully one-half in the total number of Divisional Assistant Commissioners and of Amildars and Deputy Amildars, - a reduction which will more than suffice to meet the extra cost involved by the scheme.
	To put the matter in another way, the sanctioned annual estimated cost of this branch of the existing magistracy namely, Revenue Sub Divisional Magistrates, Amildar Magistrates and Deputy Amildar Magistrates, and of their establishments, is Rs.2,09,317, as shown in the margin, whereas the entire cost of the scheme which is intended to replace them is only Rs.1,41,204, - a net saving of Rs.68,113 per annum.
	12. The feasibility of retrenchments depends, however, on other considerations not connected with the present question of separation of functions, and its disposal may also take time. In the meantime it is suggested that a provision of Rs.70,000 may be made in the Budget against the cost for the remaining months of the current official year.
	It is just possible that the Government may not wish to adopt the whole scheme

Rs.

Pay of Revenue Sub Division Magistrates.	56,368.
Travelling allowance.	12,500.
Cost of Establishment	17,994.
Travelling allowance	4,000.
	90,862.
Pay of Amildars & Deputy Amildars.	82,050.
Travelling allowance.	17,000.
Cost of Establishment.	1,10,267.
Total Rs.	2,09,317.

Vide statement furnished by the Financial Branch.

NOTE—Contn. sheet

(flag B) Page 30

GPD—70.000- 17-12-15

G. R. S. 12]

General and Revenue Secretariat. | C/5 File No. 312 of 1912.

Serial No.

at once, but may prefer to introduce it in a couple of districts to start with, extending it to the other districts later on. The scheme can be easily modified to suit this view; and the initial cost will in that case be proportionately ~~considerably~~ reduced.

13. In conclusion I would recommend that the opinions and suggestions of responsible authorities - among others, the Judges of the Chief Court, the Inspector General of Police, the Revenue Commissioner, the Inspector General of Registration, and also, if need be, the Deputy Commissioners of Districts - may be invited before the scheme is finally adopted. Also, of course, the opinion of the Financial Secretary on its purely financial aspect.

M. Chandrasekharam
13th Sept 1916

14) P.S. With the Dewan's permission (Second Member in Council) I explained the outlines of the scheme at the Council meeting of 7th Sept 1916 And as then desired I submit the papers with the above explanatory note for such action as may be deemed necessary. (K. S. Chandrasekharam) Second Member in Council 13.9.16.

9

Dewan

D. M. Narasimhaiah (Actg Secy) 14/9

NOTE—Contn. sheet.

GPB—70,000- 17-12-15

[Annexure to Second Member's Note] 10

CS 3/2.12

Draft Order.

15)

The Government are of opinion that it will tend on the whole to a better and prompter administration of criminal justice if the duty of trying cases is assigned as far as possible to officers whose attention is not distracted by other important and heavy work. A beginning in this respect was made several years ago by the appointment of whole-time Magistrates for the Cities of Bangalore and Mysore and the Kolar Gold Fields, and more recently by the constitution of Benches of Magistrates for various localities. The time appears to be ripe for taking a further step in the same direction in order to afford a very necessary measure of relief to executive officers who are burdened with multifarious duties of all kinds, and to ensure a prompter and more efficient despatch of criminal work.

10

2. At present, besides the Chief Court and the Sessions and Assistant Sessions Judges who belong to the purely judicial service, the agency available for the trial of criminal cases and appeals consists of the following officers borne on the executive cadre:--

(i.) 8 District Magistrates, who are also Deputy Commissioners of Districts;

(ii.) 3 full time First Class Magistrates for the Cities of Bangalore and Mysore and the Kolar Gold Fields;

(iii.) 23 other First Class Magistrates, who are also Assistant Commissioners in charge either of revenue Sub-Divisions or of treasuries;

(iv.) 55 Second Class Magistrates, of whom 4 are Assistant Commissioners, 3 are Munsiffs, and the rest Amildars; and

(v.) 31 Third Class Magistrates, of whom 2 are Assistant or Probationary Assistant Commissioners, 20 are Amildars, and the rest Deputy Amildars:

3. The Government have decided after careful consideration to provide a separate agency for the disposal of the mass of original criminal work that is now being done by Magistrates of all classes who are also executive officers.

They do not, however, think it desirable at present to divest the executive heads of Districts altogether of their appellate powers and powers of revision and superintendence, at any rate before allowing a sufficient period of transition for the gradual readjustment of local conditions, and for familiarising both district officers and the mass of the rural population, brought up as they have been under a different set of traditions, with the working of the new arrangement. No material change is therefore contemplated with regard to the position and functions of District Magistrates.

12

19/ At the same time these officers have not, ~~however~~, as a rule, done much original criminal work in the past, and hereafter they will not be expected to try any original cases other than such as for special reasons may be withdrawn by themselves or transferred to their file from the Courts of other Magistrates. And as regards appellate work, the power to transfer appeals will enable them to obtain any needful relief.

20/ 4. To each District will be assigned, for the present, one special Magistrate of the first class, who, in addition to original cases triable by a first class Magistrate, will (where his work is not sufficiently heavy) also dispose of such appeals as may be transferre to him by the District Magistrate.

13

21) All cases triable by second and third class Magistrates will be dealt with by special Magistrates of the second

class, as also by Benches of Magistrates in places where it may be possible to constitute such Benches

24 | The Courts of the special First Class Magistrates to be newly established will be located at the head quarters of the various Districts. The number, location and territorial jurisdiction of the Courts of special Magistrates of the Second Class will, subject to any modifications which experience may dictate, be fixed tentatively as shown in the statement appended to this order. District Magistrates will endeavour to equalise the work of these Courts as far as practicable by occasional withdrawals and transfers of cases.

25 5. Assistant Commissioners in charge of Revenue Sub-Divisions may continue to be First Class Magistrates ex officio, as it has been represented that it will prejudicially affect their position in

14

the eyes of the people of their Sub-Divisions if they are formally divested of such powers; but they will cease to exercise criminal functions in practice except such as are really executive in their nature, as for instance those referred to in Chapters VIII, IX, X, XI and XII of the Criminal Procedure Code.

6. Assistant Commissioners in charge of District Treasuries will likewise cease to exercise criminal powers. They will devote all the time that can be spared from the performance of treasury work to assisting Deputy Commissioners in their current work, besides doing the duties of Vice-Presidents of Municipalities in District Head Quarter stations where other arrangements do not obtain.

7. Amildars and Deputy Amildars will be divested of all purely criminal work; but they will continue to be heads of the Police of their taluks and sub-taluks.

This arrangement will, among other things, enable them to devote more attention than is possible at present to the investigation of important cases and to the supervision of the work of the subordinate Police.

96) 8. It may be mentioned in passing that the Government, as at present advised, are not in favour of assigning criminal work to Munsiffs, as this is apt to interfere with the disposal of their civil work. The fact that they in common with other civil court Judges enjoy an annual vacation is a further reason for not tacking on criminal work to them. The few Munsiffs who now exercise Magisterial powers will, therefore, be divested of such powers.

97) 9. The question of recruitment to the offices to be newly created will be separately dealt with, as it involves modifications in certain respects of the

16

17)

rules for admission to the Mysore Civil Service and for appointment to the Judicial Department. Here it will be sufficient to observe that officers employed as special Magistrates of the second class will have the same pay and prospects as Munsiffs, and those employed as Magistrates of the first class the same pay and propsects as Subordinate Judges. Appointments of Munsiffs and ~~send~~ Second class Magistrates will be freely interchangeable, and likewise those of Subordinate Judges and first class Magistrates, transfers from one kind of appointment to the other in the parallel grades being made at suitable intervals in order that officers trained in both civil and criminal work may be available for promotion to higher appointments in the Judicial Department.

28) 17

Pending the issue of orders on the general question of recruitment, the officers immediately required to fill the

places of Magistrates, will be selected, in consultation with the Chief Court, partly from among those who are already borne on the list of Munsiffs and partly from among Assistant Commissioners; in the latter case the selections will be without prejudice to the emoluments guaranteed to the officers concerned under the Rules of the Civil Service. Of the officers so selected, the eight most senior will be placed in charge of the Courts of First Class Magistrates, and the rest in charge of the Courts of Second Class Magistrates.

29) 10. Clerical establishments for the new Courts will be provided on the following scale:-

16

18)

30) I. FOR THE COURTS OF THE SPECIAL FIRST CLASS MAGISTRATES.

Establishment.		Salary per month.	Cost per annum.
1 Head Clerk	on	Rs.50	Rs. 600
1 Clerk	"	Rs.35	Rs. 420
1 Clerk	"	Rs.25	Rs. 300
1 Clerk (one 15-1-20)		Rs.18¾	Rs. 225
			Rs.1545

31) II. FOR THE COURTS OF THE SPECIAL SECOND CLASS MAGISTRATES.

Establishment.		Salary per month.	Cost per annum.
1 Head clerk	on	Rs.40	Rs. 480
1 Clerk	"	Rs.30	Rs. 360
1 Clerk (on 15-1-20)		Rs.18¾	Rs. 225
			Rs.1065

32) The menial establishment for each Court will consist of 1 Daffedar on Rs.8 and 3 peons on Rs.7 per mensem; and a sum of Rs.200 per annum will be provided on account of contingencies.

19

33) 11. As regards the cost of the scheme outlined above, there is no doubt that a

20)

considerable portion of it could be made up by savings in other directions that ought to result therefrom in the ordinary course. One obvious item is the pay of the three full-time Magistrates of the First Class stationed in the Bangalore and Mysore Cities and in the Kolar Gold Fields, who will be absorbed in the new scheme, as well as the pay of their establishments.

34) In addition, the effect of relieving subordinate executive officers of criminal work, which at present takes up nearly half of their time and in some cases even more, should be to allow of a reduction by fully one-half in the total number of Divisional Assistant Commissioners and of Amildars and Deputy Amildars. It is not however the intention of Government to sanction an immediate retrenchment to this extent without further enquiry; for, before determining that question, several matters not connected with the present subject of the

20

assignment of criminal work to a separate full-time agency, has to be carefully considered, such as the relief to which executive officers may be entitled on other grounds, the feasibility of a re-grouping of Revenue Sub-Divisions and taluks with due regard to public convenience, and the like. The question of retrenchment will accordingly be investigated and dealt with separately.

35) In the meantime, a lump sum provision of Rs.70,000 will be added to the Budget for the current year under the head "Law and Justice" in order to meet the additional cost immediately required.

36) 12. The new scheme will be brought into operation from the 1st January 1917 by which time it is expected that all the needful preliminary measures required to give effect to it will have been

21

22)

completely taken. The Registrar of the Chief Court and the officers in charge of the other Departments concerned are requested to submit in good time beforehand all necessary proposals for orders, including the drafts of notifications to be issued in regard to the constitution of the new Courts, the provision of buildings for their location, the selection of officials etc.

13.9.16.

K. S. Chandrasekhara Aiyer
13-9-1916

Secretary to Government.
General Department.

To

The Registrar, Chief Court (with a covering letter).
" Revenue Commissioner in Mysore
" Inspector General of Police.
" ~~Registrar~~ Chief Engineer of Mysore.
All Deputy Commissioners and District Magistrates.

22

A P P E N D I X.

Districts.	Number and location of Courts of Special Second Class Magistrates.	Territorial jurisdiction.
Bangalore.	1. Bangalore.	Bangalore; Hoskote; Anekal.
	2. Closepet.	Closepet Sub Taluk; Channapatna; Magadi; Kankanhalli.
	3. Dodballapur.	Dodballapur; Devanahalli; Nelamangala.
Kolar.	1. Kolar	Kolar; Srinivaspur; Chintamani.
	2. Kolar Gold Fields.	Bowringpet; Mulbagal; Malur.
	3. Chickballapur.	Chickballapur; Goribidanur; Bagepalli; Sidlaghatta; Gudibanda Sub Taluk.
Tumkur.	1. Tumkur.	Tumkur; Tiptur; Chickanayakanhalli; Kunigal; Gubbi; Turuvekere Sub Taluk.
	2. Maddagiri.	Maddagiri; Pavagada; Koratagere Sub Taluk; Sira.
Chitaldrug.	1. Chitaldrug.	Chitaldrug; Hiriyur; Challakere; Molakalmuru.
	2. Davangere	Davangere; Holalkere; Hosadurga; Harihar Sub Taluk; Jagalur.
Mysore.	1. Mysore.	Mysore; Hunsur; Yedatore; Malavalli.
	2. French Rocks.	French Rocks Sub Taluk; Seringapatam; Krishnarajpet; Nagamangala; Mandya.
	3. Nanjangud.	Nanjangud; T.Narasipur; Chamarajnagar; Gundlupet; Heggadadevankote.
Hassan.	1. Hassan.	Hassan; Manjarabad; Belur; Alur Sub Taluk.
	2. Channarayapatna.	Channarayapatna; Arsikere; Hole-Narasipur; Arkalgud.
Kadur.	1. Chickamagalur 2. Tarikere	Chickamagalur; Mudagere; Koppa. Tarikere; Kadur; Narasimharaja-pura Sub Taluk.
Shimoga.	1. Shimoga.	Shimoga; Honnali; Chennagiri; Tirthahalli; Kumsi Sub Taluk.
	2. Sagar.	Sagar; Sorab; Nagar; Shikarpur.

Not intended for publication.

NOTE.

For some time past what is popularly known as the question of "the Separation of Judicial from Executive Functions" has been under discussion in its various aspects among official and non-official gentlemen interested in it.

2. The following is one of the schemes recently suggested for the consideration of Government:—

(i) Deputy Commissioners will continue to be District Magistrates, as it will cause some inconvenience and dislocation of business if they are replaced entirely by a fresh set of officers.

(ii) For the disposal of original criminal work now done by the subordinate Revenue officers, a separate agency may be provided, *viz.*, (i) 8 special first class magistrates, one for each district, to be located at the District headquarters, (ii) 19 special second class magistrates to be located at convenient centres, for the trial of second and third class cases and, (iii) Benches of Magistrates may also be constituted wherever practicable to take part in the trial of second and third class cases; and on such Benches a place may be found for duly qualified special sub-registrars.

A suitable distribution of taluks among the special second class magistrates has been suggested in the appendix to this note, with due reference to the statistics of the work of the various magisterial courts in the State during the past official year. This is intended to approximate equalisation of business, and, what is much more important, promote the convenience of the local population in regard to distance. The distribution suggested is a tentative one and may be modified as experience may suggest. District magistrates will no doubt be able to make the work of these magistrates as nearly equal as practicable by a system of transfers of cases.

(iii) The above arrangement will allow of the withdrawal of criminal work from all Assistant Commissioners and taluk officers; but Sub-Divisional Officers may continue to be *ex-officio* 1st class magistrates exercising only the powers referred to in chapters VIII to XII of the Criminal Procedure Code, which are essentially of an executive character.

(iv) Appeals against convictions by second and third class magistrates will be heard by District Magistrates or by the special first class magistrates whenever they are transferred by District Magistrates to them.

(v) The new staff of special magistrates would form part of the Judicial service like Munsiffs, Sub-Judges and District Judges. The appointments of Munsiffs and Sub-Judges may be interchangeable with those of the new Special Magistrates, in order that officers trained in both civil and criminal work may be available for promotion to higher appointments in the Judicial Department

(vi) The total cost of the proposed scheme will be as shown below:—

	Rs.
Pay of 8 Special Magistrates of the First Class rising from Rs. 500 to Rs. 600 by biennial increments of Rs. 50 (8×550×12).	52,800
Pay of 19 Special Magistrates of the Second Class rising from Rs. 200 to Rs. 400 by triennial increments of Rs. 50 (19×300×12)	68,400
Ministerial establishments of 8 First Class Magistrates' Courts at Rs. 1,545 each.	12,360
Do 19 Second Class Magistrates' Courts at Rs. 1,065 each	20,235
Menial Establishments of 27 Courts at Rs. 348 each ...	9,396
Contingencies for the 27 Courts at Rs. 200 each ...	5,400
Total ...	1,68,591

Deduct.—

Pay of the three existing full-time Magistrates of the First Class who will be absorbed in the new scheme (calculated at the same rate as that of the new Special Magistrates of the First Class) 3×550×12.		19,800
and of their Establishments:—		
	Rs.	
(*a*) City Magistrate, Bangalore ...	2,276	
(*b*) Do Mysore ...	2,081	
(*c*) Special Magistrate, Kolar Gold Fields ...	3,230	
		7,587
Total ...		27,387
Total cost of the scheme ...		1,41,204

APPENDIX.

Districts	Number and location of Courts of Special Second Class Magistrates	Territorial Jurisdiction
Bangalore	1. Bangalore	Bangalore; Hoskote; Anekal.
	2. Closepet	Closepet Sub-taluk; Channapatna; Magadi; Kankanhalli.
	3. Dodballapur	Dodballapur; Devanhalli; Nelamangala.
Kolar ...	1. Kolar	Kolar; Srinivaspur; Chintamani.
	2. Kolar Gold Fields	Bowringpet; Mulbagal; Malur.
	3. Chikballapur	Chikballapur; Goribidnur; Bagepalli; Sidlaghatta; Gudibanda Sub-taluk.
Tumkur ...	1. Tumkur	Tumkur; Tiptur; Chiknayakanhalli; Kunigal; Gubbi; Turuvekere Sub-taluk.
	2. Maddagiri	Maddagiri; Pavagada; Koratagere Sub-taluk; Sira.
Chitaldrug	1. Chitaldrug	Chitaldrug; Hiriyur; Challakere; Molakalmuru.
	2. Davangere	Davangere; Holalkere; Hosdurga; Harihar Sub-taluk; Jagalur.
Mysore	1. Mysore	Mysore; Hunsur; Yedatore; Malvalli.
	2. French Rocks	French Rocks Sub-taluk; Seringapatam; Krishnarajpete; Nagamangala; Mandya.
	3. Nanjangud	Nanjangud; T.-Narsipur; Chamarajnagar; Gundlupet; Heggaddevankote.
Hassan	1. Hassan	Hassan; Manjarabad; Belur; Alur Sub-taluk.
	2. Channarayapatna	Channarayapatna; Arsikere; Hole-Narsipur; Arkalgud.
Kadur ...	1. Chikmagalur	Chikmagalur; Mudgere; Koppa.
	2. Tarikere	Tarikere; Kadur; Narasimharajapura Sub-taluk.
Shimoga ...	1. Shimoga	Shimoga; Honnali; Chennagiri; Tirthahalli; Kumsi Sub-taluk.
	2. Sagar	Sagar; Sorab; Nagar; Shikarpur.

(Note of Mr. D. M. Narasinga Rao
Copy of the note submitted
to Dewan on 8.8.17.)

SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS

---:0:---

Note by Mr. D. M. Narasimgachariar

37) The scheme now under the consideration of Government seems open to the following objections:-

38) (i) In so far as it aims at the separation of magisterial functions from the revenue, it assumes, without proo that the combination is inexpedient and defers to a mere theory.

39) (ii) While the magisterial functions are separated from the police, as far as Amildars are concerned, the evil is left intact in regard to the Head of the district magistracy.

40) (iii) Criminal Justice is made at least thrice as distant and as costly as now, without compensating advantages of a substantial character.

41) (iv) The cost is prohibitive even assuming that the anticipated retrenc ments are possible.

38/42) 2. With the merits of that scheme, those of two alternative schemes may be considered:-

(i) The Baroda Scheme; and

(ii) that of limiting the princip of separation only to the polic functions.

The Baroda Scheme.

3. The details of this scheme are contained in the annexure. Its merits are (i) proximity and cheapness of criminal justice, (ii) proximity and cheapness of Civil Justice, (iii) separation of criminal functions from all but civil functions and (iv) consistency, thoroughness and ample practical justification for the additional cost incurred.

Details for the two districts of Hassan and Bangalore can be worked out on the Baroda lines, if desired.

Police separation.

4. The main proposals under this head would be as follow:-

(a) The Amildar should be relieved of all police functions, the Police Inspector being made the Head of the Taluk Police with improved status.

(b) The District Magistrate should be prohibited from trying any criminal case, his powers being limited to certain specified functions as in Baroda. He may, in such circumstances, continue to be Head of the Police in the district.

(c) Power to hear appeals and power of revision exercised at present by the District Magistrates should be delegated to existing Assistant Commissioners, Assistant Sessions Judges and Sessions Judges.

29

42) The comination of criminal and police functions is obviously incongruous and this would be terminated throughout. The status of Police Inspectors shall have to be raised in any case as it is at present not such as to place them above temptation. The supervision now exercised by the Amildars over the Police Inspectors is not effectual owing to pressure of other work

43) If the pay of Inspectors of the Taluk and Sub Taluk Police is fixed at the uniform rate of Rs. 100-10-150 and Rs. 75-5-100 respectively, the extra expenditure on account of the Taluk and Sub Taluk police establishment will roughly be Rs. 1374 per mensem for the two districts of Bangalore and Hassan, and Rs. 5824 per mensem for the whole State.

D. M Narasingarao

8-8-17

25

(Enclosure to Mr. Narang's Note dated

30)

THE SYSTEM OF ADMINISTRATION

OF CRIMINAL JUSTICE IN THE BARODA STATE.

----:0:0:0:----

48) For administrative purposes the State is divided into four prants (or Districts), ten vibhags (or sub divisions) and 33 mahals (or taluks), besides a few peta mahals (or smaller taluks).

48) (2) In each District there is a District Judge and one or more Assistant Judges with criminal as well as civil Jurisdiction. Practically every taluk has a Munsiff-Magistrate, exercising 1st class Magisterial powers in addition to his civil work. Some Police patels and Village Pahchayets are also specially empowered to try petty criminal cases in certain villages.

46) (3) Like the Presidency Towns, the City of Baroda has a special judicial organization of its own and the original criminal work there is entrusted to the Chief City Magistrate (who has at present one

29

or two Assistants) City Munsiff exercising only civil jurisdiction.

47/51 (4) The executive officers corresponding to our Deputy Commissioners, Sub Divisional Officers and Amildars are, in Baroda, designated Subahs, Naib Subahs and Vahivatdars respectively.

48/52 (5) As Sub Divisional and District Magistrates, the Naib Subahs and Subahs exercise 1st class magisterial powers but only in "bandobasti" matters e.g., security for peace and good behaviour and sanctions to prosecute. The District Magistrates have powers to inspect all the subordinate magistrates' offices within their jurisdiction and they have also certain discretionary powers such as transfering cases from one subordinate court to another. In recent years, the practice has been initiated of empowering certain select Naib Subahs every year, with trying powers in not more than ten cases per each officer, in order to keep Revenue Officers in touch with criminal work. In matters connected with discipline, e.g., submission of judicial returns, the question of vesting of power and so on, the Revenue Officers in their magisterial functions are under the Varisht (High) Court.

30

49) [b) 53] The powers of Vahibatdars in regard

32)

to criminal cases, extend only to "bando-
basti" or precautionary sections of the
Local Criminal Procedure Code (correspond-
ing to the provisions contained in Chap-
ters VIII to XI of the Mysore Regulation
II of 1904) and the preparation of prima
facie cases for extradition. These
powers are, however, of a very limited
scope, as the authority under most of
the above sections is not exerciseable
by any Magistrate below the 1st class,
while vahivatdars are invested only with
2nd class powers for these purposes.
Disputes about possession etc., of im-
movable property and easements (vide
Chapter XII of the Criminal Procedure
Code), though of the nature of "bando-
basti", come under the jurisdiction of
the Munsiff Magistrates.

50(1) 54) In the case of one or two backward
and forest taluks, however, the Vahibat-
dar is invested with and exercises the
full trying powers of a 2nd class Magis-
trate.

51(53)(8) An exception is also made in regard
to offences of non-registration under the
Infant Marriage Prevention Act, over
which the vahivatdar, (and not the Munsiff
Magistrate) exercises summary jurisdiction
as the Mahal Second Class Magistrate.
These offences are, it seems, punishable

31

only with a small fine and are viewed as coming within the cognisance of executive rather than of judicial administration.

52 (There are two kinds of offences under the infant marriage Act: the infant marriage itself and secondly the non-registration of the infant marriage. The first go to the Munsiff Magistrates for trials: the second are dealt with by the Revenue Magistracy.)

53 9. Thus, except to the limited extent explained in paragraphs 5, 7 & 8 no executive officer in Baroda, from the Subah (or District Collector) down to the Vahivatdar (or Amildar), is vested with any criminal jurisdiction - original or appellate - to try cases which is exercised by the ordinary Civil Courts, the Baroda City, however, having a special magistracy of its own for trying the criminal cases there.

Read in council on 23/8/17

1.

Separation of Judicial and Executive Functions.

First Member's note

1. In Baroda there is generally one Munsiff Magistrate exercising first class powers for each Taluk. If that principle be adopted in the two Districts of Bangalore and Hassan there would be 16 Munsiff Magistrates (9 + 7) ; but as we have now only 3 Munsiffs' Courts in Bangalore and 2 in Hassan we will have to increase the numbers by at least 11. Even this may have to be increased by one as the Bangalore First Munsiff has right civil work even for one Taluk, and cannot undertake any criminal work. An extra Magistrate will therefore be necessary for Bangalore Taluk only.

The minimum cost of a Munsiff Magistrate's Court exclusive of cost of furniture and buildings will be Rs.561¾ per mensem or Rs.6,741 per annum. The cost for 18 Courts will thus be Rs.85,691 per annum.

Munsiff's pay Rs.300 average.
Establishment 261¾.
Maddagiri court taken as standard having the lowest establishment)
Total. Rs.561¾.

2. If on the other hand the principle of one Munsiff Magistrate for 2 taluks is adopted, then for the 9 taluks in the Bangalore District, 5 Munsiff Magistrates will be necessary. The Civil work of the First Munsiff being --- heavy, he cannot be given any criminal work. The criminal work of the Taluk (exclusive of the work of the City which is now given to the Bench Magistrates and the City Magistrate) has to be given to the Civil Officer or the Personal Assistant to the Deputy Commissioner. For the remaining 8 taluks, 4 officers are necessary and as we have already two, two more Munsiff Magistrates will be necessary. Coribidnur Taluk may be brought under the jurisdiction of Chickballapur Court, and Devanhally brought under the new District group.

57/61) The Courts may then be grouped thus:-

(1) Hoskote & Anekal (Head quarters being Bangalore)

(2) Kankanhalli, Closepet and Chennapatna,
(Head quarters, Closepet).

(3) Magadi and Nelamangala
(Head quarters Nelamangala)

(4) Doddaballapur and Devanhalli
(Head quarters Doddaballapur)

(5) Bangalore.

55/62) In regard to Hassan, there are 7 taluks and one sub taluk, there will be 4 Courts necessary and as there are already 2, 2 more will have to be established. The Civil jurisdiction over the hoblies of Yedatore Taluk and Krishnarajpet Taluk will have to be given to Mysore 2nd Munsiff's Court and Seringapatam Court respectively.

The Courts may be grouped thus:-

(1) Hassan and 'Alur' Sub Taluk

(2) Belur and Manjarabad
(Head quarters Saklespur)

(3) Arasikere and Channarayapatna
(Head quarters Arsikere)

(4) Holo Narasipur and Arkalgud
(Head quarters Holo Narasipur)

The cost of these additional four courts in the two Districts will be Rs.26,964/ per annum.

59/65) 3. There are, however, certain inconveniences in adopting either of those suggestions. The first point for consideration is whether all these Munsiffs should be invested with First class powers, or whether only senior Munsiffs who can be empowered with 1st class powers should be posted to these places. The latter is impracticable from an administrative point of view.

34

It seems also objectionable to invest all Munsiffs with First class powers in the first instance. When this question was raised by the Judicial Conference, the Government stated that as far as possible the higher powers will not be conferred till the officer is found fit to exercise the same. It seems undesirable that officers who have not exercised the 2nd or 3rd class powers should be invested with first class powers in the first instance. If the Munsiff Magistrates are invested with only 2nd class powers, then separate magistracy will have to be employed for exercising the first class powers. This may entail additional expenditure.

(69) Then the question of vacation has to be considered. If the Munsiff Magistrates are to have the annual vacation like the other Judicial Officers, their work during the vacation has to be done by others, this may completely upset the criminal work and cause much inconvenience to the parties. If, on the other hand, privilege leave is substituted for vacation, there will be the --- anamoly of two sets of rules, and additional officers will have to be kept in reserve for temporary vacancies caused by absence on privilege leave.

(65) 4. A Munsiff can ordinarily dispose of on an average 500 to 600 original suits and 500 to 600 small causes unless the Civil work of the two talks is therefore very much below this, say, three-fourths or half of this, any criminal work which he may be asked to do will interfere with his Civil work and will add to the proverbial law's delays.
If the Criminal work also happens to be heavy, then there can be no doubt that the civil work will suffer very much.

35

(62) The following table shows the civil work of the 16 taluk for the last year 1916-17. :-

	Original suits.	Small caus
Bangalore District		
1.Bangalore	729	1,519
2.Hoskote	97	104
Anekal	96	78
3.Kankanhally	112	78
Channapatna	178	61
Closepet Sub Tq.	81	61
4.Magadi	100	97
Nelamangala	156	63
5.Doddaballapur	254	158
Devanhalli.		
Hassan District		
1.Hassan	413	272
Alur Sub Tq.	96	47
2.Belur	155	80
Manjarabad	133	48
3.Arasikere	250	78
Chennarayapatna	240	82
4.Hole Narasipur	242	112
Arkalgud	251	89

(63) The Criminal work of these taluks for 1915-16 is given below:-

	First class.	2nd class	3rd class
Hassan	30	86	163
Alur	7	2	99
Belur	12	20	192
Manjarabad	14	39	144
Arasikere	11	25	128
Chennarayapatna	12	23	168
Hole Narasipur	6	34	143
Arakalgud	19	27	137
Bangalore Taluk	32	32	213
Anekal		27	157
Hoskote		2	82
Chennapatna		98	59

36

	1st class	2nd class	3rd class
Closepet		-	146
Kankanhally		45	258
Magadi		10	79
Nelamangala		9	89
Doddaballapur		-	113
Devanhalli		-	185.
To this must be added) Doddaballapur Sub Dn.)	77	55	15
Closepet Sub Dn.	78	58	

1st class for each taluk not known.

If one Munsiff Magistrate may be appointed for 2 taluks; then, for the 9 taluks in Bangalore, 5 Munsiff Magistrates are necessary, we have now 3, so two more officers are necessary. The Courts may be grouped thus:-

(1) Hoskote & Anekal
(Head Quarters being Bangalore)

(2) Kankanhally, Closepot & Chennapatna.
(Head Quarters being Closepot)

(3) Magadi and Nelamangala
(Head Quarters Nelamangala)

(4) Doddaballapur & Devanhalli
(Head Quarters Doddaballapur)

(5) Bangalore.

In regard to Hassan, there are 7 taluks and 1 Sub taluk and there should be therefore 4 Courts, and as there are already two, two more will be necessary.

The Courts may be grouped thus:-

(1) Hassan and Alur Sub Taluk
(Head Quarters, Hassan)

(2) Belur and Manjarabad
(Head Quarters Sakleapur)

(3) Arsikere and Chnnarayapatana
(Head Quarters Arsikere).

(4) Hole-Narasipur and Arkalgud
(Head Quarters Hole-narasipur)

The cost of these from additional Courts will be 26,964 per annum.

These Munsiff Magistrates can be invested only with Second class powers as it is inadvisable to entrust them

with First class powers.

~~In~~ first class cases, two first class Magistrates in Bangalore District (including the City Magistrate) and 2 for Hassan District are necessary. If two for Hassan district are considered too many then one of the Assistant Commissioners or other officer must be invested with first class powers to try cases that might be transferred to him by the District Magistrate.

The two first class Magistrates may be of the rank and status of Senior Assistant Commissioners or Sub Judges, and the cost of the two Courts (one additional first class Magistrates - court for Bangalore and one for Hassan) will be Rs. 550 x 2 x 12 (pay of Magistrates)
1545 x 2 (Ministerial establishment)
348 x 2 (Menial establishment)
200 x 2 (contingencies)

Rs. 17,286

Thus the total cost of the scheme will be Rs. 17,486 + 26,964
or 44,450

The Munsiff Magistrates in these two districts cannot have vacation but will be entitled to privilege leave.

(The Chief Court will also have to be consulted in the matter, and the question of recruitment to the class

of First class Magistrates has also to be considered.) As regards the recruitment to the class of Munsiff Magistrates, the rules already in force regarding the recruitment of Munsiffs may be adopted.

~~Vide para (73) See page 35~~

(Note 2/5.10.17.

(42

8 Separation of Judicial and Executive Functions.

Mr. G. Srinivasa Iyer's note

The suggestion is that a Magistrate may be appointed for 2 Taluks to try exclusively the criminal cases of those Taluks, and that he should be invested with only 2nd class powers, the Assistant Commissioner being invested with 1st class powers to try 1st class cases as heretofore. There are 68 Taluks in the State and the Sub Taluks may be merged in the adjoining Taluks for purposes of criminal jurisdiction; and it will be then necessary to appoint 34 Magistrates on the whole for the State. They may be recruited partly from among the Assistant Commissioners, partly from among the Munsiffs and partly from among the Amildars.

Their pay may range from Rs. 200 to Rs. 400, and they may be graded thus:--

12	on	200
10	on	250
6	on	300
4	on	350
2	on	400

The total cost of the Scheme for the whole State will be as follows:--

34 Magistrates - Rs.	12	x 12	x 200
	10	x 12	x 250
	6	x 12	x 300
	4	x 12	x 350
	2	x 12	x 400

or Rs. 1,06,800

Ministerial

(43)

1 on 40 = 480 per annum.	Ministerial Establishment for 34 Magistrates. Rs. 34 x 1065
1 on 30 = 360 "	
1 on 15-1-20.- 225 "	Rs. 36,210.
1 Duffedar on 8 96.	Menial Establishment: 34 x 348
3 Peons on 7 252.	Rs. 11,832.

The total cost will thus be Rs. 1,54,842 or roughly a lakh and a half.

SS 4/10

42

68/79) At present the scheme may be given effect to only in the 2 Districts of - - Bangalore and Hassan. Then the cost of the scheme as applied to these 2 Districts alone will be as follows:-

8 Magistrates

(4 for Bangalore,
4 for Hassan). .. 4 on 200
3 on 250
1 on 300

or Rs. 22,200.

Ministerial Establishment. .. 8 x 1065
~~xxRxxx2x12x~~.
or Rs. 8.520.

Menial Establishment. .. 8 x 348

or Rs. 2,784.

Total cost will be Rs. 34,504.

69/78) The Courts may be grouped thus:-

Bangalore District.

Bangalore, Hoskote and Anekal.

Kankanahalli, Channapatna, Closepet,

Magadi, Nelamangala, ~~Dodballapur~~

~~Devanhalli~~ Dodballapur, Devanhalli.

Hassan.

Hassan and Alur.

Arsikere, Channarayapatna,

Holenarasipur and Arkalgud

Manjarabad and Belur.

43

4/10

(2) Note Prepared under the instructions of the First and Second Members (C.C.

By Scheme for separation of Judicial and Executive Functions.

A. 2 First class Magistrates Courts:-

		Rs.
1. Pay of the 2 Magistrates at Rs.400-50/2-500 i.e. 466 2/3 x 2 x 12	--	11,200
2. Ministerial Establishment at Rs.1545 each i.e. 2 x 1545	--	3,090.
3. Menial Establishment 2 x 348	--	696
4. Contingencies 2 x 200	--	400
Total	..	Rs.15,386

B. 5 Special Magistrates of the 2nd class:-

1. Pay of the 5 Magistrates at Rs.150-50/3-400 -- 275 x 5 x 12	--	16,500.
2. Ministerial Establishment at 1065 each -- 5 x 1065.		5,325
3. Minial Establishment 5 x 348	--	1,740.
4. Contingencies at Rs.200		1,000
Total	..	Rs.24,565
Grand Total	..	" 39,951

C. Deduct -

1. Probable savings on account of the abolition of the Sub Taluqs of Closepet and Alur - at 231 p.m.	..	Rs.2,772.	
2. Probable savings on account of the judicial clerk in 4 Sub Divisions at 4 x 25	..	1,200	
3. Savings on account of 2 New Sub Divisions contemplated at 2 x 6264	..	12,528	
			Rs.16,500

D. Net cost of the Scheme

Rs.39951
16500

Rs.23,451.

44

7189 Statement of First Class cases and of Appeals in the Bangalore District for the year 1915-1916.

- - - - - - -

A. Number of First Class cases (exclusive of those filed before the City Magistrate) .. 155

B. Number of appeals to the District Magistrate and other Magistrates having appellate jurisdiction. 60

Hassan District.

A. Number of First Class cases. 111

B. Number of Appeals. 46

---

892 Statement showing the number of Second and Third class cases contributed by the Taluqs.

		No. of 2nd class cases.	No. of 3rd class cases.
A. Bangalore District.			
1. Bangalore.	Bangalore, Hoskote Anekal.	61	442
2. Closepet.	Closepet Sub Taluk Chennapatna, Magadi, and Kankanhalli.	148	542
3. Dodballapur.	Dodballapur, Devanhalli, and Nelamangala.	21	385
	(Exclusive of 55 second class cases and 15 3rd class cases tried by the Sub Division Magistrate.)		
B. Hassan District.			
1. Hassan	Hassan, Channarayapatna, Arasikere, & Hole Narasipur.	168	602
2. Saklespur.	rkalgud, Manjarabad elur & Alur Sub Taluq.	88	572

Urgent

SEPARATION OF JUDICIAL AND EXECUTIVE.

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

---

73) The Assistant Secretary, Br. III, is requested to kindly put up a draft order in accordance with the latest typed note in the file, before the 18th instant.

C.S. Balasundaram
(CSB)
11/10/17

J. Jayaram
11/10/17

(Kindly put up 5/10/17)

74) I have submitted herewith a draft order chiefly based on those prepared under the orders of Mr. K.S. Chandrasekhara for when he was Secretary to Council, and have also included the necessary modifications

C.S. Balasundaram
(CSB)
16/10

(x) (x) The case is for discussion in Council on 19th morning. The file may be sent to Hqrs so as to reach Hqrs on 18th)

75) Chief Sec
Thanks
Please have the draft typed as slightly revised & 6 copies made
C.S. Balasundaram
(CSB)
17/10/17

C.6

76) 6 copies have been typed & signed. 17/10/17

17.10.17

77) Seen by the Extraordinary Member.
K. Mylai
18-10-17

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

W.D. 84—GPB—60,000—20-7-16

(18)

The separation of Judicial and Executive functions is urged generally on two grounds:-

(1) Firstly, that justice is impaired by the amalgamation of Executive with Judicial functions.

(2) Secondly, that saddling Executive officers having outdoor duties, with the trial of cases has resulted in delay in both Departments of work.

2. As regards the first objection it has to be noted that the question is not one so much of system as of personnel. Justice is not affected by the amalgamation of other duties with Judicial functions, but by inherent defects in particular officers exercising those functions. Corruption and misuse of powers is as common in wholetime Judicial officers as in Executive officers. The remedy, therefore, lies in selecting proper persons and in divesting unworthy officers of their Powers, and not in a mere change of system.

3. The separations is, however, necessary on the second ground. There has been considerable addition to the duties of Executive officers of late, and there have been instances of Amildars and Assistant Commissioners being tied down to their Headquarters for several days in the month owing to heavy magisterial work. Relief to these officers will not come a day too soon.

4. As regards the two schemes before Government, the first one under which it is proposed to appoint a Munsif-Magistrate for every two Taluks and two First Class Magistrates of the grade of Senior Assistant Commissioners or Sub Judges for each District is, I think, undesirable and objectionable on the following grounds:--

(a) The amalgamation of Civil with Criminal Jurisdiction will

(45

will not considerably improve matters. The Munsif-Magistrates will be subordinate to two distinct authorities, the District Judge in respect of Civil work, and the District Magistrate in respect of magisterial work. The double responsibility and dual control will lead to delay in the disposal of work. The tendency to ascribe delay in one class of work to increased activity under another will be only too alluring in the future as it has been in the past, and the controlling officers in either branch will be unable to determine the correctness of the excuse. This scheme has been tried in the past and failed.

(b) The recruitment under this scheme does not propose to take advantage of the experience gained by Government officers in magisterial work already. The recruitment of raw men from the Bar direct to the Magistracy with no previous official -- experience is not desirable.

(c) Finally, it proposes to divest Revenue officers completely of magisterial duties. This is not possible as the preventive powers of a Magistrate under the Criminal Procedure Code have to be exercised by an Executive officer who can tour and not by a Stationary officer; nor is it desirable. For, When Assistant Commissioners rise to be Deputy Commissioners, they will be handicapped in the discharge of their duties as District Magistrates by lack of previous magisterial experience.

Scheme II.

(a) The second scheme before Government is certainly the better one. It avoids all the defects above noticed. The provision of a Wholetime Magistrate for every two Taluks is one that is to be heartily welcomed in the interests of the Revenue officers and of the Public.

(b) It is proposed to give effect to the scheme in two

Districts

(50)

Districts only. But, I think, that instead of restricting it to two Districts alone in their entirety it would be better if it is given effect to in the first instance, in respect of all Taluks in the State where both the Revenue and Magisterial work are heavy. If, however, Government consider it necessary to try it in one of two of the Districts in their entirety, it may be done; but, at the same time, I would suggest its being extended to the Headquarter Taluks also of the other Districts as well as to some other selected Taluks, not exceeding half a dozen, wherein both Revenue and Magisterial works are heavy, and the Amildars are in urgent need of relief.

(c) As regards the details of the scheme, I am of -- opinion that the pay proposed to the Second Class Magistrate is unduly high. In the Madras Presidency, the Stationary Sub Magistrates who are Second Class Magistrates are, I believe, paid only Rs 125/- and Rs 150/-. It may be argued that the Magistrates should be paid liberally so as to keep them above temptation; but, this principle should not be carried too far and converted into a fetish. High pay does not by itself keep off corruption as we only too well know. It would do if the Second Class Magistrates are included in the cadre of Amildars and given the same rank and pay. If, however, Government consider it necessary to place them on a somewhat higher scale their pay may be fixed at Rs 200/- rising to Rs 500/- and they may, as proposed, be recruited from among the Senior and -- successful Amildars as well as from the Munsiffs. In the case of the latter, their training as Magistrates will stand them in good stead when they rise to the position of Sub Judges and are invested with the powers of Assistant Sessions Judges. The Magistrates recruited from the Amildari may be eligible for promotion as Assistant Commissioners, and those recruited from Munsiffs may revert to the Judicial Department when their

(49)

promotion

promotion falls due there.

(d) The Amildars need not, under this scheme, be completely divested of their Magisterial functions, but may continue as Second or Third Class Magistrates exercising the preventive powers under the Criminal Procedure Code, and trying only such cases as may be referred to them by the District or Sub Divisional Magistrates. This provision is necessary as otherwise cases in which transfer is called for will have to be transferred to Courts far away from the Taluks to which they belong.

(e) I think that in the interests of the efficiency of the Revenue Administration a certain amount of relief for -- Assistant Commissioners from Magisterial work is as urgently needed as for the Amildars. I would, therefore, propose that a wholetime First Class Magistrate may be appointed in each District to afford relief to the Assistant Commissioners in their Magisterial work. These Magistrates may be recruited from among the Senior and experienced Assistant Commissioners and Sub Judges and will be eligible for promotion in their respective Departments as Deputy Commissioners and District Judges. The Sub Division officers thus relieved of original Magisterial work may, whenever they are competent, be invested with Sub Divisional and Appellate powers, so that they may exercise supervision and control over the subordinate Magistrates and become qualified to exercise the powers of the

strict Magistrates when they are placed in charge of Districts.

Financial aspect of the 2nd Scheme, modified as suggested above.

(52)

Ultimate cost of the scheme.

	Rs.
36, 2nd Class Magistrates at Rs 250/- each on an average.	9,000.
Establishment and contingencies at Rs 90/-	3.420.
1 clerk on Rs 30.	
1 clerk on Rs 20.	
4 peons on Rs 30.	
Contingencies Rs 10.	
Total ...	12,420 per mensem or Rs 1,49,040 per annum.

8 1st Class Magistrates at Rs 400/- per mensem at an average. ...	3,200.
Establishment and contingencies at Rs 150.	1,220.
1 clerk on Rs 40.	
1 clerk on Rs 30.	
1 clerk on Rs 20.	
5 peons on Rs 40.	
Contingencies Rs 20.	
Tptal ...	4,420 per mensem or Rs 53,040 per annum.

Total ... Rs 16,840 per mensem
or
Rs 2,02,080 per annum.

Immediate cost. (If the scheme is introduced in two Districts, say Bangalore and Mysore (instead of Hassan) which may be taken up first for this purpose, and a few select Taluks in other Districts).

		Rs
For 16 Second Class Magistrates,	16 x 340 ...	5,440.
For 2 First Class Magistrates,	2 x 550 ...	1,100.
Total ...		6,540 per mensem or Rs 78,480 per annum.

51

Note:--

The cost of the First Class Magistrate may, however, be left out of account in the scheme as with the appointment of

(53

f a separate and soletime 1st Class Magistrate for each District, it will be unnecessary to increase the number of Revenue Sub Divisions as proposed by Government. If this is done, the cost of the scheme for the Second Class Magistrate alone will be:--

Ultimate	... ...	Rs. 1,49,040 per annum.
Immediate	... ...	Rs. 65,280. per annum.

Subject.- Clause viii of the schedule.

Proposals for the separation of judicial from executive functions.

OPINION OF THE COUNCIL.

C.S. 194 (55

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

92/105) Adraft Do to the Ch Justice
& Puisne

Cs Balagundaia
105
18 Members) 9/10/29

93/105) C/f/S
M. Kandaraya Rly
ccc
20/10

9(C/S) 106) Secretary
TVT
20/10/29

Mr Hara & Co ccc
Note 54.

54

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—5-8-15

95) 2 letters (5)
(Issued) on 20:10.17

Encl 1 packet of 6 files

Sir L. C. Miller, K

to the Chief Justice, from the Hon'ble Law Member, Council

My dear Sir,

I send for your kind perusal the accompanying [illegible] Papers relating to the Separation of Judicial and Executive functions.

Govt. have before them for consideration two alternative proposals for effecting this reform:

(i) by transferring the criminal work to Munsiffs and suitably readjusting their territorial jurisdiction, somewhat on the lines of the arrangement in vogue in the Baroda State, details of which are given in the note marked B.

(ii) by constituting a class of special Magistrates solely for criminal work.

The details of the latter scheme are embodied in the draft order on the file.

3. Your general views on these proposals ~~at~~ are already on record in your letter dated the 16th Oct. 91. But before arriving at a decision I would like to have your considered opinion on the relative merits of the two schemes in the final form in which they are now presented.

4. I shall be glad to discuss the matter with you, if you so desire.

5. An early reply will much oblige

Yours Sincerely

20/10

First Member
of Council

19/10/91

(58

CHIEF COURT OF MYSORE,
BANGALORE.
Dated October 1917.

letter of — October 1917 from the Chief Judge to the Dewan Member in Council

My dear sir,

Your letter of the 20th Instant.

108) I have gone through the papers and considered the two schemes to the best of my ability. I assume that the Government has decided on introducing one or other of them into two districts and the only question is 'which?'

107) 110) The Baroda scheme has the advantage of being more complete but it involves the withdrawal of the powers of deciding criminal cases from District and Sub Divisional Magistrates and to that I understand there are objections more or less speculative, on the ground of loss of prestige: it seems to me that if preventive powers are left with these officers there will be no loss of prestige or influence worth troubling about, and I do not think this a very serious objection.

56

The

(4) The Baroda scheme involves also the conversion of nearly all the civil courts into combined civil and criminal courts. I have no information how that works out in regard to delay or trouble in Baroda but my experience is that the civil work of District Judges is impaired a good deal by the necessity of giving precedence to their work as Sessions Judges, and that the slowness of the trials of civil cases in those courts is largely due to interruptions caused by criminal work, it being practically impossible to allot fixed days beforehand to either branch of work. This and the vacation difficulty are objections to the combination of civil and criminal courts and the vacation difficulty though no doubt less serious is not unsubstantial. So far as the officers are concerned it may be met to a great extent by the privilege leave rules, but the result would be that while, as things are now, the civil court Judges can get an annual rest without expense to Government, they would if they all wanted privilege leave every year have to be replaced by other officers: and though it may be said that it is not likely that all would require leave every year

year, it will not be denied by those who have tried it that the work of presiding in a civil court, especially a court of first instance, is of a kind to render an annual rest almost essential.

(64) 112) Moreover the closing of the civil courts, gives a rest also to practitioners, and though probably the pleaders of munsiffs' courts have to a large extent to remain at work in the magistrates' courts during the vacation, I doubt if they would care for the abolition of the vacation altogether. It is the mufassal practitioners as much as any one else who in Madras have supported the suggestion to prolong the vacation of munsiffs so as to equilise it with that of District Judges.

(65) 113) It may also be said that our special magistrates and the Presidency magistrates elsewhere sit all the year round without a vacation, and do work of the same kind, more or less, as is done in the civil courts. That is true but our special magistrates are only three in number and the grant of

privilege

107/115) Except for the combination of civil and criminal courts which I think makes for delay in disposal of work, I rather like Baroda system, but on the whole I think we had perhaps better make a start here with the other.

108/116) Its chief advantage is that the court is an entirely criminal court and will not be distracted by trying to fit in two branches of work as Revenue magistrates and munsiff magistrates have to do. This I am pretty sure will make for expedition, and a notable defect in the administration of criminal justice at present is the long delays that occur in the trial of even petty cases. I do not think that we shall find on the whole any increase of inconvenience to witnesses: the extra length of journey that some may have to make to the court may it is to be hoped, be compensated for by fewer adjournments and consequently fewer journeys. At present we find many cases adjourned because the magistrate was called away on other duty, and it is obviously difficult to preserve regularity in the posting and trial of cases

58

before

before a magistrate whose other duties are so varied and so important as those of a revenue officer.

There is a minor advantage in that all the appellate work will fall on the superior magistrates, who will be able to judge of their subordinates' work as a whole, and not have to make allowances for civil work which does not come before themselves for review, and the second class magistrates themselves will not be serving two masters.

I think therefore that the scheme outlined in the draft G.O. is preferable to the other.

But even if powers of trial and decision of cases and withdrawn from Deputy and Assistant Commissioners I am inclined to think it would be better to adopt a scheme of special magistrates such as was suggested by Mr. Justice Chandrasekhara Aiyar rather than the Baroda scheme. But as the former is probably very expensive, we might as the Baroda scheme seems to do, make the taluk magistrates do all the work, first, second and third class, like a Presidency Magistrate, and

by

64

by appointing Assistant Sessions Judges in each District Head Quarters provide for appellate work. The Assistant Sessions Judge would be a Subordinate Judge who would relieve the Head Quarter Munsiffs of some of their work on the civil side. This however is not one of the proposals which you have asked me to consider. So I do not discuss it further.

(12)+20) I shall be very glad to discuss the matter with you at your convenience as you kindly suggest.

Yours sincerely,

To

Rajaseva Dhurina M. Kantaraj Urs, B.A., C.S.I.
First Member of Council.

CONFIDENTIAL.

SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS.

The following schemes are suggested for the consideration of Government:—

I. One Munsiff Magistrate may be appointed for 2 taluks; then, for the 9 taluks in Bangalore, 5 Munsiff Magistrates are necessary; we have now 3, so two more officers are necessary. The courts may be grouped thus:—

(1) Hoskote and Anekal (Headquarters being Bangalore).

(2) Kankanhalli, Closepet and Channapatna (Headquarters being Closepet).

(3) Magadi and Nelamangala (Headquarters Nelamangala).

(4) Dodballapur and Devanhalli (Headquarters Dodballapur).

(5) Bangalore.

In District Hassan, there are 7 taluks and 1 sub-taluk and there should be, therefore, 4 courts, and as there are already two, two more will be necessary. The courts may be grouped thus:—

(1) Hassan and Alur Sub-taluk (Headquarters, Hassan).

(2) Belur and Manjarabad (Headquarters Saklespur).

(3) Arsikere and Channarayapatna (Headquarters Arsikere).

(4) Hole-Narsipur and Arkalgud (Headquarters Hole-Narsipur).

The cost of these four additional courts will be Rs. 26,964 per annum.

These Munsiff Magistrates can be invested only with second class powers as it is inadvisable to entrust them with first class powers.

For first class cases, two first class Magistrates in Bangalore District (including the City Magistrate) and 2 for Hassan District are necessary. If two for Hassan District are considered too many, then, one of the Assistant Commissioners or other officer must be invested with first class powers to try cases that might be transferred to him by the District Magistrate.

The two first class Magistrates may be of the rank and status of Senior Assistant Commissioners or Sub-Judges, and the cost of the two courts (one additional first class Magistrate's Court for Bangalore and one for Hassan) will be:—

	Rs.
Pay of Magistrates	550×2×12
Ministerial establishment	1,545×2
Menial establishment	348×2
Contingencies	200×2
	Rs. 17,486

Thus the total cost of the scheme will be Rs. 17,486+26,964 or 44,450.

The Munsiff Magistrates in these two districts cannot have vacation but be entitled to privilege leave.

As regards the recruitment to the class of Munsiff Magistrates, the rules already in force regarding the recruitment of Munsiffs may be adopted.

II. The suggestion is that a Magistrate may be appointed for 2 taluks to try exclusively the criminal cases of those taluks, and that he should be invested with only second class powers, the Assistant Commissioner being invested with first class powers to try first class cases as heretofore. There are 68 taluks in the State and the sub-taluks may be merged in the adjoining taluks for purposes of criminal jurisdiction ; and it will be then necessary to appoint 34 Magistrates on the whole for the State. They may be recruited partly from among the Assistant Commissioners, partly from among the Munsiffs and partly from among the Amildars.

Their pay may range from Rs. 200 to Rs. 400, and they may be graded thus :—

12	...	on Rs. 200
10	...	„ 250
6	...	„ 300
4	...	„ 350
2	...	„ 400

The total cost of the scheme for the whole State will be as follows :—

			Rs.	
34 Magistrates	12	...	200	Rs. 1,06,800 per annum.
	10	...	250	
	6	...	300	
	4	...	350	
	2	...	400	

		Rs.
Ministerial Establishment for 34 Magistrates	...	34 × 1,065 = 36,210*
Menial Establishment	...	34 × 348 = 11,832†

The total cost will thus be Rs. 1,54,842 or roughly a lakh and a half.

		Rs.	
*1 on 40	...	480	per annum.
1 on 30	...	360	„
1 on 15—1—20	...	225	„
†1 Duffedar on 8	...	96	„
3 Peons on 7	...	252	„

At present the scheme may be given effect to only in the two districts of Bangalore and Hassan. Then the cost of the scheme as applied to these two districts alone will be as follows :—

			Rs.	
Eight Magistrates. (4 for Bangalore, 4 for Hassan)	4	...	200	Rs. 22,200 per annum.
	3	...	250	
	1	...	300	

Ministerial Establishment	...	8 × 1,065	= Rs. 8,520
Menial Establishment	...	8 × 348	= Rs. 2,784
Total cost will be	...		Rs. 34,504

The Courts may be grouped thus :—

Bangalore District.—

Bangalore, Hoskote and Anekal ; Kankanhalli, Channapatna, *Close* Magadi, *Nelamangala*, *Dodballapur*, Devanhalli.

Hassan.—

Hassan and Alur ; *Arsikere*, Channarayapatna, *Holenarsipur* and Arkalgud ; Manjarabad, Belur and *Saklespur*.

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc.. not intended for permanent record.]

---

112) File re separating Judl & Executive functions

113) I shall be glad if asstt Secy will put up a tabulated statement of the several schemes put forward giving their main features & rough cost for submission to members of Council

Time - Before 5th Jan'18.

CS Balasundaram
(CS)
24/12/17

Being collected today

114)-122) The connected papers on the subject which were got from the Connemara Section today - have been submitted herewith

Note
31.12.17

115)-123) Submitted with a draft statement. After approval by the Asst Secy it will be fair copied and if so ordered

(with five typed copies of the Statement

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

W.D. 84—GPB—60,000—20-7-16

3. The Special Magistrates to form part of the Judicial Department service, the appointments of Munsiffs and Sub Judges being interchangeable with those of the New Magistrates.

2. First Scheme in the printed note.

1. Deputy Commissioners to continue as District Magistrates.

2. One Munsiff Magistrate, with Second class powers to be appointed for every two taluks.

3. For first class cases, two first class Magistrates to be appointed for every District, except where this number is considered too many.

4. The Munsiff Magistrates not to have vacation, but to be entitled to privilege leave.

5. These Magistrates to be recruited under the rules in force re: the recruitment of Munsiffs.

Modified Baroda Scheme

62

(1) Cost calculated for two Districts - (Bangalore & Hassan)

Cost of 4 additional Courts for Munsiff Magistrates.	26,964
Cost of 2 First Class Magistrates' Courts	17,486
Total per annum	44,450

R. 8. For Bangalore one I class Magistrate taken into account as there is already a City Magistrate.

For Hassan, only one I Class Magistrate is calculated, as one of the Assistant Commissioners or other Officer, may be invested with First Class Powers

(2) The cost for the whole State will

			Rs.
Rs (36 x 6741)	or		242676
Minus (20 x 12 x 300 + 71586)	or		99090
Plus ...	...	..	69944
	i.e.		169084

(if only one First Class Magistrate is appointed for each District. In some cases, 2 will be necessary, then the cost will be more)

Chandra Sekhara Iyer's case.

1. Deputy Commissioners to continue to be District Magistrates and hear appeals.

2. Withdrawal of criminal work from all Assistant Commissioners and Taluk Officers and the provision of the following agency for the disposal of original criminal work:-

Special I Class Magistrates, one for each District, to be located at District Head Quarters, for the trial of First Class cases.

Special II Class Magistrates to be located at convenient centres for the trial of Second and Third class cases.

Honorary Magistrates to be constituted wherever practicable for the trial of Second and Third class cases, a place on each Bench being found for duly qualified Special and Ex-officio Magistrates.

Additional Officers to confer powers under Chapters VIII to XII of the Criminal Procedure Code

	3 First Class Magistrates	50,895
	19 Second Class Magistrates	60,800
	Ministerial & menial establishment and contingencies.	47,891
		1,59,591
	Deducting establishment charges amounting to Rs. 27,337	27,337
		1,31,254 per annum.

Scheme.	Main Features.	Rough Cost	Remarks
Second Scheme in the Printed Note. (Modified Scheme Shri Chandrasekhara Iyer.)	(1) Deputy Commissioners to continue as District Magistrates. √ (2) A Magistrate, with Second class powers to be appointed for 2 taluks to try exclusively the criminal cases of those taluks. √ (3) Assistant Commissioners to be invested with I class powers to try I class cases as heretofore. (4) The Magistrates to be recruited from among Assistant Commissioners, Tunciffs and Amildars. (5) The Scheme to be given effect to, at present, only in two Districts, Bangalore and [illegible]	For the whole State. 34 Magistrates. 12 on Rs. 200) 10 ... 250) Rs. 1,06,800 P.A. 6 ... 300) 4 ... 350) 2 ... 400) Ministerial Establishment 36,210 Menial Establishment 11,832 1,54,842 For two Districts. 6 Magistrates. 4 on Rs. 200) 3 ... 250) 22,200 P. 1 ... 300) Ministerial Establishment 8,520 Menial Establishment 2,784 33,504	For complete separation it may be necessary to have 8 First class magistrate in addition to the 6 of Magis. Bangalore, Town Magistrate Mysore and Special Magistrate & by the additional cost will then be Rs 69,944
The Baroda Scheme.	(1) Each District has a District Judge and one or more Assistant Judges with Civil and Criminal Jurisdiction. Every taluk has a Tunciff Magistrate	For the two Districts of Bangalore and Hassan.	

(3) Police Patels and Village Panchayets are in some places specially empowered to try petty criminal cases in villages

(4) The City of Baroda has a special Judicial organisation. Original Criminal work is entrusted to the Chief City Magistrate and one or two Assistants (City Munsiffs) exercise only -- Civil Jurisdiction.

(5) The Executive Officers are not invested with Criminal jurisdiction, original or appellate, except in regard to 'bandobast matters' inspect of Magistrates' Officers.

5. The Scheme of Police Separation (suggested by Mr. D.V.Jagga Rao)

(1) The Amildar to be relieved of police functions, the Police Inspector being made the Head of the Taluk Police, with improved status.

(2) The District Magistrate not to try any criminal case; his powers being limited to inspection of Magistrates Officers &c. as in Baroda. To continue as Head of Police for the District.

(3) Power to hear appeals &c. now exercised to be delegated to Assistant Commissioner Assistant Sessions Judges, and Sessions

If pay of Inspectors of the Taluk Sub Taluk Police is fixed at Rs.100-10-150 and 75-5-100 respectively the extra cost it is to be as follows:-

For the two Districts of Bangalore and Kolar ... 16,496 P.A
For the whole State ... 69,888

(but this will be separation of

C.S. 19.L.

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

117/125) Submitted with a tabular statement

S Sreenivasa
CS
9/1

Chief Secretary

18) 126) A tabular statement giving the main features of the several schemes & the cost is put up
CS Balasundara
CS
9/4/18

~~125~~ member

119/127) I have returned 1 copy forming

120) ~~128~~) may be recorded formal decision same as adopted by the Diwan

A.R.Ba
10.1.18

60

In submitting copy to Exco member
CS Balasundaram
CS

125) Submitted for Exco member
CS Balasundaram
CS

Send me the statement
CS Balasundaram
CS

3619/12.1.18

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

W.D. 84—GPB—60,000—20-7-16

125) A copy of the statement has been retained for submission to Hon'ble Member

15.1.18

124) Submitted for Exco meeting Hon'ble Member

11.1.18

(15) (20)

(28) Separation of Judicial and Executive functions.

OPINION OF THE COUNCIL.

22/1/27

(28) Draft order

(28) ~~(28)~~ The draft order may be approved

7/2/27.

The following experiment may be tried in one Dt.

1) Civil magl work may be entrusted to Munsiffs

2) Their number to be increased, one munsiff being placed in charge of 2 talukas, normally & in special cases of 3 talukas.

3) one or two first class magls

Special magls Scheme -

(1) - Cadre will form part of Jud Dept.

(2)

Spl magls. scheme - agreed to } cases & cases to retain powers

Work not retained -

Spl powers magls -

Qrs to be enlarged & numbers reduced.

As local area becomes available - scheme may be introduced.

65

Cadre to be Jud. - at the beginning Select magls may be magls for Munsiffs & cases

Say - 200 - 50/3 - 600 Same ratio for Munsiffs

1st class magls 500 - 50/2 - 600 - 8: 1/2 each Dt.

Scheme to be started in 4 Dts

- Qrs of Munsiffs - open economy to be exercised

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

(128 A) D.O. letter dt 13-2-1928 from Mr. K.S. Chandrasekhara Ayyar, Comm. of Labour, Bangalore to Govt. Legislative Dept. (Encl 72)

129) 128) 135) Submitted with the observations of Mr. KS. Chandrasekhara Iyer, under Dept. Lr. The mistake pointed out in the figures was clerical and does not affect the total

13/2

Chief Secretary)

Recruitment

All vacancies to be filled from recruits to the Law classes &c.

½ from Bar

½ by Promotion

Std. Peon to Engineer

4 Std. Peons { Bangalore, Mysore, Shimoga, Kolar

Std. Mates, 1 Std. Mate, 2 Widows

136) 139) 134) Submitted with draft Submission for approval

13/2

Chief Secretary) Approval

131) 130) 135) Dewan

26/2/28

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

W.D. 84—GPB—60,000—20-7-16

To come after para 128. (22)

Bangalore,
1 3th Feb.1918.

Dear Mr Srinivasa Iyer,

(126) I return herewith the draft Govt. Order which you were good enough to send for my observations.

(127) I ~~xxx~~ have made one or two alterations, for the most part verbal ones. I have however rewritten para 11 in order to obviate the impression that the scheme was still on its "trial" and had not been definitely adopted. I do not know what the four districts are into which the scheme is to be first introduced, but have ventured to suggest Bangalore, Kolar, Tumkur, and Mysore for consideration.

(128) It is certainly a good idea to retain the three existing whole-time First Class Magistrates; and the modifications made in the territorial jurisdictions as originally proposed by me are, I dare say, all right.

(129) As regards establishment, I had in my original scheme provided for Special Second Class Magistrates a slightly smaller staff of officials than that provided for Special First Class Magistrates. I am now convinced that the former will want at least as large an establishment as the latter, as the

67

cases tried by them cannot be less numerous, and it is the number rather than the importance of the cases that puts work on the clerical staff. I would therefore suggest the addition of one clerk on Rs.15 to each Special Second Class Magistrate's Court.

(3) I have not checked the financial effect of the scheme as worked out in the draft, beyond noting a patent arithmetical error.

(4) On the whole, I think, the draft Order is quite suitable.

Yours sincerely,

M. Chandra Sekhara

Proceedings of the Government of H.H.
the Maharaja of Mysore.

Order No.

Dated Bangalore, 1918.

1521-1427 The Government are of opinion that it will tend on the whole to a better and prompter administration of Criminal Justice if the duty of trying cases is assigned as far as possible to officers whose attention is not distracted by other important and heavy work. A beginning in this respect was made several years ago by the appointment of whole-time magistrates for the cities of Bangalore and Mysore and the Kolar Gold Fields, and more recently by the constitution of Benches of Magistrates for various localities. The time appears to be ripe for taking a further step in the same direction in order to afford a very necessary measure of relief to executive officers ~~who are burdened with multifarious duties of all kinds~~ and to ensure a prompter and more efficient despatch of criminal work.

33) 143)

2. At present, besides the Chief - - Court and the sessions and Assistant - - Sessions Judges who belong to the purely judicial service, the agency available - for the trial of criminal cases and appe- als consists of the following officers -- borne on the executive cadre. -

(i) 8 District Magistrates, who are also Deputy Commissioners of Districts.

(ii) 3 full time First Class Magis-- trates for the cities of Bangalore and -- Mysore and the Kolar Gold Fields.

(iii) 21 other First Class Magistrate who are also Assistant Commissioners in - charge either of Revenue Sub Divisions - or of treasuries.

(iv) 55 Second Class Magistrates, of whom 5 are Assistant Commissioners, 3 -- are Munsiffs, and the rest Amildars.

(v) 30 third Class Magistrates, of - whom 2 are a Probationery Assistant Com- missioners, 18 are Amildars and the rest Deputy Amildars.

3. The Government have decided after careful consideration to provide a separate agency for the disposal of the mass of original criminal work tha it is now being done by magistrates of all classes other than the three full-time magistrates of the first class already available, who will continue as here to fore[illegible]

They do not however think it desirable at present to divest the executive heads of Districts altogether of their appellate powers and powers of revision and Superintendence, at any rate before allowing a sufficient period of transition for the gradual re-adjustment of local conditions, and familiarising both district officers and the mass of the rural populations, brought up as they have been under different set of traditions, with the working of the new arrangement. No material change is therefore contemplated with regard to the position and

functions of District Magistrates.

At the same time these officers have not, as a rule, done much original criminal work in the past, and hereafter they will not be expected to try any original cases other than such as for special reasons may be withdrawn by themselves or transferred to their file from the courts of other Magistrates. And as regards appellate work, the power to transfer appeals will enable them to obtain any heedful relief.

4. To each District will be assigned, for the present, one special Magistrate of the First class, who, in addition to original cases triable by a first class Magistrate, will (where his work is not sufficiently heavy) also dispose of such appeals as may be transferred to him by the District Magistrates.

All cases triable by second and third class Magistrates will be dealt with by special Magistrates of the second class as also by benches of Magistrates in places where it may be possible to constitute such benches

139/145 The courts of the special First Class Magistrates to be -- newly established will be located at the head quarters of the various Districts. The number, location and territorial jurisdiction of the courts of special Magistrates of the second class will, subject to a modifications which experience may dictate, be fixed tentatively as - shown in the statement appended to this order. District Magistrates will endeavour to equalise the work of these courts as far as practicable by occasional withdrawals and -- transfers of cases.

160 5. Assistant Commissioners, Amildars and Deputy Amildars ~~may~~ will continue to be magisterates ex-officio, (as it has been represented that it will -- prejudicially affect their position in the eyes of the people in their jurisdiction, if they are formally divested of such powers) but they

will cease to exercise criminal functions in practice except such as are really executive in their nature, as for instance those referred to in chapters VIII.IX.X.XI and XII of the Criminal Procedure Code.

6. Amildars and Deputy Amildars will also continue to be heads of the Police of their taluks and Sub Taluks. This arrangement will, among other things, enable them to devote more attention than is possible at present to the investigation of important cases and to the supervision of the work of the subordinate Police.

7. It may be mentioned in passing that the Government, as at present advised, are not in favour of assigning criminal work to Munsiffs, as this is apt to interfere with the disposal of their civil work. The fact that they in common with other Civil Court Judges enjoy an annual vacation is a further reason for not entrusting them with criminal work. The few munsiffs who now exercise Magisterial powers will, therefore, be divested of such powers.

141/159 6 8. The new Special Magistrates will be included in the cadre of the Judicial Department, the pay of the first Class Magistratesbeing ~~fixed at~~ Rs.500-2/1-600 and that of second Class Magistrates at Rs.200-50/3-400 per mensem. ~~These officers will, at the begin-~~ pending the elaboration of a suitable scheme of recruitment, ~~ning~~, be ~~recruited~~ selected from among Munsiffs and Amildars.

9. Clerical establishments for the new Courts will be provided on the following scale:-

I. For the Courts of the Special First Class Magistrates.

Establishment.		Salary per mensem	Cost per annum.
1 Head Clerk	on	Rs.50	Rs.600
1 Clerk	"	35	420
1 Clerk	"	25	300
1 Clerk	"	15-1-20 (Avr 18¾)	225

II. For the Courts of the Special Second Class Magistrates.

1 Head Clerk	on	Rs.40	Rs.480
1 Clerk	"	30	360
1 Clerk	"	15-1-20 (Avr 18¾)	225

The menial establishment for each

(81

each Court will consit of 1 Daffedar on Rs.8 and 3 peons on Rs.7 per mensem; and a sum of Rs.200 per annum will be provided on account of ~~xxxtkg~~ contingencies.

143) 152) 10. The cost of the scheme outlined above will be as shown below:-

	Per annum
Pay of 8 Special Magistrates of the 1st Class at Rs.500-50/2-600 per mensem (566 2/3 x 8 x 12)	Rs.54,400
Pay of 24 Special Magistrates of the 2nd Class at Rs.200-50/3-400 per mensem (300 x 24 x 12).	86,400
Ministerial establishments of 8 1st Class Magistrates Courts at Rs.1,545 each (8 x 1545) ...	12,360
------do---- do----- of 24 2nd Class Magistrates Courts at Rs.1065 each (24 x 1065)	~~12,560~~
Menial establishments of 32 Courts at Rs.348 each	11,136
Contingencies for the 32 Courts at Rs.200 each ..	6,400
Total ...	1,96,256 per annum.

16

1 lakh 15) 32

Against this amount should be set off a sum of Rs.~~42,540~~ 41,340 being the savings that may be effected in respect of the following items of expenditure as a result

of the introduction of the new Scheme:-

	per annum.
(1) Pay of four additional Assistant Commissioners sanctioned in May 1917 for 4 new Sub Divisions (4 X 350 X 12)	16,800
(2) Pay of 68 Judicial gumastas of Taluk office at ~~Rs.~~ 21¼ per mensem. (21¼ X 68 X 12)	17,340
(3) Pay of 16 magisterial clerks of the Sub Division Offices at ~~Rsx25/-~~ Rs.25/- per mensem. (16 X 25 X 12)	4,800
(4) Pay of 8 clerks of the Deputy Commissioner's offices engaged in magisterial work at Rs.25/- per mensem.	2,400
Total. Rs.	41,340

The net total cost of the scheme will thus be Rs.~~1,54,916~~ 1,55,256.

11. Government consider that before introducing the new scheme in its

11. The scheme as outlined above will be introduced in the first instance, that is to say with effect from the beginning of the ~~current~~ ensuing financial year into the districts of Bangalore, Kolar, Tumkur, Mysore, Hassan and Kadur. The remaining districts of the State

its entirety throughout the State, it i desirable to try it in some districts for the time being and extend it to other districts later on. They are accordingly pleased to direct that the scheme be given effect to at present in the four distric argin.

12. The cost of introducing the scheme in the 4 districts cannot be calculated before knowing what the districts are, as the number of II class magistrates for each district mentioned in the appendix is not the same. Mention about budget provisions for the cost ~~xixx~~ have also to be made.

13. The scheme will be brought into operation in the said districts from 1918. The Registrar of the Chief Court ~~and the Officers in charge of t other districts concerned~~ are request to submit in good time before hand all necessary proposals for orders including the draft of notifications to be issued in regard to the constitution

of the new courts, the provision o

buildings for their location, the

selection of officers and official

and other matters incide ~~&c. &c.~~ to the introduction of the new scheme.

An appeal will lie to Special Deputies to work under the orders of the Chief Court in order to ~~carry~~ dispose of pending appeals ~~coming~~ in Scheme districts after the Scheme came into effect from 8th July 1908

Chief Secretary to Govt.

To

The Registrar, Chief Court.

" Revenue Commissioner in Myso

" Inspector General of Police.

" Chief Engineer of Mysore.

All Deputy Commissioners.

" District Magistrates.

The Comptroller to Government.

Extract from the Proceedings of the 443rd *Meeting of the Council of His Highness the Maharaja, held at Bangalore on the* 12th March 1918.

---

3. Subject.-Clauses ix and x of the Schedule.

Proposals for the separation of judicial from executive functions.

OPINION OF THE COUNCIL.

The scheme for the separation of judicial from executive functions on the general lines indicated below, may be approved:-

(i) Amildars to be relieved of the work of trying cases, while continuing as Taluk Magistrates.

(ii) Assistant Commissioners to be similarly relieved of the work of trying cases.

(iii) Special Second Class Magistrates to be appointed, with jurisdiction over two or more taluks to try all Second and Third lass cases.

(iv) Special First Class Magistrates to be appointed, one for ach district, to try First Class cases and hear appeals.

(v) These Special Magistrates to be included in the cadre of the Judicial Department.

(vi) Deputy Commissioners to continue as District Magistrates.

(vii) The scheme to be introduced in four districts to start with, viz., Bangalore, Mysore, Tumkur and Shimoga.

Sd. M. Visvesvarya,

Dewan of Mysore.

"Extract"

C S Balasundaram

Chief Secretary to Government.

WD 1233—GPB—60,000—1-12-16—S.

C.S. 194 (87)

G. R. S. III-2]

General and Revenue Secretariat.	File No.	of 191

Serial No. 1558 Dsn Submitted.

Dewan

Obj
13/8/18

8

NOTE

(88)

Submitted to His Highness.

157) ~~156~~) The accompanying papers deal with the question of the separation of judicial and executive functions.

152) 160) 2. This is a long-standing question repeatedly pressed upon the attention of Government both in the Legislative Council and in the Representative Assembly. It has been carefully considered in all its aspects and discussed several times in Council. The outlines of the scheme finally formulated for divesting executive officers of magisterial functions are contained in the accompanying extract from the proceedings of the meeting of the Council held on the 12th instant. The details of the arrangements required for giving effect to the proposed reform are roughly indicated in the draft order on the file. These require further examination and revision in consultation with the Financial Department and the Chief Court. The final draft order will be submitted for approval in due course. In the meantime, I solicit that His Highness may be graciously pleased to accord ~~his~~ preliminary sanction to the general scheme.

Sig I. (Pages 85)

153) 161) 3. The draft order has been scrutinised by Mr. Chandrasekhara Aiyer, Judge of the Chief Court, and the scheme has been again examined and approved by the First Member of Council on his return from leave.

M. Visvesvaraya

11th March 1918.

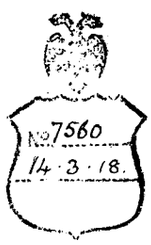
C. 278-17 (87

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

154) 162)

Question of the separation of judicial and executive functions.



1031

Order.

153) 163) ~~KRW~~ 15/3/18

54

~~KRW~~ 20.3.

16/3/18. 156) ~~164)~~ 16.3.18 RC to oversee

16/3 157) CS. Submit to member as once & then send to ass Secy to complete the draft order under member's orders.

CS ordered 16/3/18

ND 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

e 278 (95

General and Revenue Secretariat. | File No. | of 191

Serial No.

158/165) Submitted for favour of opinion.
Secretary
23/3

Financial Secretary

23-3-16

159) 166) The scheme is no doubt a desirable one but I am afraid it has to wait till funds are forthcoming.

160) 167) The head "Law and Justice" where this expenditure should be classified is included in the group "Protection and Army" and as the Government is aware, large amounts are now spent under the latter head. As there will not be sufficient balance for the group under the financial settlement scheme, schemes however important they may be, coming under this group have to be put off till funds are available in this group.

161) 168) As regards the amount required for the scheme under consideration, the Comptroller on the basis of the 1st edition of the estimates, says that at most a sum of Rs.35,000 can be made available. But the Military department have asked for numerous urgent and large grants over and above the Comptroller's first Edition figures, e.g., the following:

BST

✓ (a) Additional field service charges, 185,000
(b) Additional for recruiting 75,000
(c) Transport Corps Mobilisation equipment 50,000

From this, it will appear that far from their being any balance available under this group, there will ✓ be a large deficit. In these circumstances it seems to me that reforms like this can have their

NOTE—Contn. sheet.

turn

G. R. S. 12]

General and Revenue Secretariat. | File No. | of 191

91

Serial No.

turn only after the strain on the financial situation caused by the war is removed.

M Chakravarthi
24/3/18

Bor 14

164/165) The draft R.O. is submitted for favour of approval. The number of Surveillance cases is mentioned as subject to change after modification after further investigation in consultation with the Deputy Commissioners.

Examined
26/3

165) First Member
Keep-after - the file may now be circulated for approval of new members.
A provision of Rs 25,000 may be made in the mid-year budget - & this seems quite sufficient & moreover the 2 cases which are two months of Bihar & Orissa to begin working from 1st January 1919.

29/3/18 well mr Chakravarthi has.
2nd member
Ext. member

C.S.B. Ramunni
30/3/18
B.P.

171) Approved - H. A. Ramunni
1-4

Draw
2.4.18.

Please put up with draft R.O. as in 165 & Ext. members approved. 4/4/18.

NOTE—Contn. sheet.

GPB—25,000—2-11-19

G. R. S. 12]

General and Revenue Secretariat. | File No. | of 191

(92)

Serial No.

166/175) Draft Trial Note submitted for favour of approval.

8/4

First Member

167/176) Approved

Letter to Secretary Govt

13/4/18

168/175) Fair final note signed by Chief Secretary as amended is put up.

13/4/18. (169/176) Draft Submission Note submitted for favour of Dewan's kind approval.

18/4

Chief Secretary)

170/177) D.O. Submitted

5405
15.4.18

Dewan)

Copy of amended D.O. sent

18/4/18

18/4

57

NOTE—Contn. sheet.

GPB—25,000—2-11-14

Submitted to His Highness.

(93

S (171) 196)

I submit herewith a Final Note by the First

Member of Council on the subject of the separation

of Judicial and Executive functions

for His Highness' gracious approval.

M. Visvanatha

Dewan.

16th April 1918.

Final Note by the First Member of Council

Subject:—

Question of the separation of Judicial and Executive functions.

His Highness was graciously pleased to accord sanction to the general scheme regarding the separation of judicial and executive functions in the State submitted with the Dewan's submission note of the 14th March 1918.

2. The draft order which has since been revised under my instructions sets forth the details of the scheme.

3. The Financial Secretary who was consulted is of opinion that, as there will not be sufficient balance for the group "Protection and Army" under the Financial settlement scheme, schemes however important they may be, have to be put off till funds are available and that reforms like this should have their turn only after the strain on the financial situation caused by the war is removed.

4. A provision of Rs.25,000 has however been made in the next year's budget for the purpose and this is quite sufficient to introduce the scheme in two Districts viz., Bangalore and Shimoga to begin with, from 1st January 1919.

5. The other members of Council are agreeable to this proposal which may be approved.

13 Apl 18

First Member of Council.

(G5)

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

(185)
185 Proposal to introduce the scheme regarding the separation of judicial and executive functions in the Districts of Bangalore and Shimoga from 1st January 1919.

1200 (175)
Returned with Do No 299.
dated 20.4.1918

Orde..

Do No 299
Enc on file

ict Secretary
22.4.18

The Palace,
Mysore.

20th April 1918.

My dear Sir,

I am directed to return the File relating to the separation of Judicial and Executive Functions and to say that His Highness approves of the draft order subject to two modifications. His Highness would prefer to omit in para 3 page 3 the words from "at any rate" to "new arrangement". I have marked the portion to be omitted with a bracket in blue pencil.

I am to explain that His Highness prefers, at this stage, not to hold out any prospect of the Executive Heads of Districts being deprived of all Magisterial powers.

His Highness would also omit on page 5 para 6 the words " all the officers selected should be graduates in Law ".

In British India Civilian Magistrates are

not all Barristers. Very few in fact have been called to the Bar and they are none the less competent as Magistrates.

(5) His Highness does not wish to disqualify members of the Mysore Civil Service who do not happen to have taken the B.L. Degree, from holding these special Magisterial appointments.

Yours sincerely,

Richmond

Sir M. Visvesvaraya,

Dewan of Mysore,

Bangalore.

CONFIDENTIAL.

W. D. 791—GPB—2,000—2-10-15

C.S.15·2
30.4.18

REPLY.

(To be written on this margin.)

Office of the Dewan of Mysore.

NOTE.

Dated.....29th.....April.....*191* 8

Audit (173) Separation of Judicial and Executive functions.

****

(184) (194) It was, I believe, proposed to appoint a special officer to work out details in connection with the scheme for the separation of executive and judicial functions. Cannot the work be entrusted to the Efficiency Audit Officer and his Assistant? If necessary an additional clerk may be given. I shall be glad if the Chief Secretary will kindly furnish his views in the matter.

24.4.18. AC

The Chief Secretary.

WD 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2.

General and Revenue Secretariat.

File No. 98 of 191

Serial No.	
(86/185)	I think the work can be attended to by the Efficiency Audit Officer & his Assistant in addition to their other work. One or two additional temporary clerks may be necessary.
(87) 186	The work may involve a certain amount of touring & absence from headquarters but this can be arranged for without much disturbance to headquarters work.
	Devany CBB. 30/4/18
(88) 187	Please bring up at a meeting Normal.
	30.4.18 CD
	CS CB 30/4/18
	(for para 188A see page 96)

93

General and Revenue Secretariat. | File No. | of 191

99

Serial No.

(50) ~~48~~) Draft as finally revised may be approved for issue

1st member
Dewan

5855
8.5.18

(1911) ~~495~~) This may issue after approval is conveyed herein - vide last para Draft G.O.

8.5.18

CS.
Include in Supplementary (list).
8/5

94

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-8-18—S.

(11) Draft

(100)

Subject.-

(192) ~~200~~ Draft order regarding the separation of Judicial and Executive Functions.

(193) ~~201~~ Opinion of the Council.

Note

194) ~~202~~ The draft order may be issued

Secy (in Kautaraya)
9/5

195) ~~203~~ Necessary to be early action.

Memorandum Dept
9/5/48

196) ~~204~~ Immediate.
Communicated
9/5

95

F 2904-17

101

R. S. III-2]

General and Revenue Secretariat.

to File No. 312 of 191 2.

Serial No.	
	To.
1	The Registrar, Chief Court The Rev. Commr The I.G. of Police The Chief Engineer The Dy. Commrs & Dt. Magts of Dts The Comptroller The other heads of Depts. No. J 4530-460 D 10.5.18 Passes orders on the scheme for the Separation of the Judicial & Ex: functions in the State. ~~To. Part II with 2 printed copies~~
	17/205) Reference is invited to Financial Secrt's note D 24.3.18 (Flag: Z)
X 2904-17	198/206) Draft & fair communicating the order is submitted
84 17/5	17.5.18 Helen) 18 17/5/18
	M 18/5 N 18/5
	(99) 207) Communicated 20/5

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-8-18—S.

No. 312-18-1 (102 Conf-Pro 216941 & 20/5/18

Proceedings of the Government of His Highness the Maharaja of Mysore.

Order No. 4500-4600/Cr.312-12-

Dated Bangalore, 10.5. 1918.

The Government are of opinion that it will tend on the whole to a better and prompter administration of Criminal Justice if the duty of trying cases is assigned as far as possible to officers whose attention is not distracted by other important and heavy work. A beginning in this respect was made several years ago by the appointment of whole-time magistrates for the cities of Bangalore and Mysore and the Kolar Gold Fields, and more recently by the constitution of Benches of Magistrates for various localities. The time appears to be ripe for taking a further step in the same direction in order to afford a very necessary measure of relief to executive officers and to ensure a ~~prompter and~~ more efficient despatch of criminal work.

2. At present, besides the Chief Court and the Sessions and Assistant Sessions Judges who belong to the purely judicial service, the agency available for the trial of criminal cases and appeals consists of the following officers borne on the executive cadre:-

(i) 8 District Magistrates, who are also Deputy Commissioners of Districts.

(ii) 3 full time First Class Magistrates for the cities of Bangalore and Mysore and the Kolar Gold Fields.

(iii) 21 other First Class Magistrates who are also Assistant Commissioners in charge either of Revenue Sub Divisions or of treasuries

will be revised before 1922

(iv) 55 Second Class Magistrates, of whom 3 are Assistant Commissioners 3 are Munsiffs, and the rest Amildars.

(v) 30 third Class Magistrates, of whom 2 are Probationary Assistant Commissioners, 18 are Amildars and the rest Deputy Amildars.

3. The Government have decided after careful consideration to provide a separate agency for the disposal of the mass of original criminal work that is now being done by magistrates of all classes other than the three full-time magistrates of the first class already available, as referred to above, and also the Munsiff Magistrate of the Kolar Gold Fields, who will continue as heretofore.

They do not however think it desirable ~~at present~~ to divest the executive heads of Districts altogether of their appellate powers and powers of revision and superintendence No material change is therefore contemplated with regard to the position and functions of the District Magistrates.

At the same time these Officers have not, as a rule, done much original criminal work in the past. and hereafter they will not be expected to try any original cases other than such as for special reasons may be withdrawn by themselves or transferred to their file from the Courts of other Magistrates. As regards appellate work also, the Special Magistrates First Class will be duly empowered to hear appeals from the decisions of 2nd and 3rd class Magistrates wherever the original work is not very heavy. The conditions prevailing in the Kolar Gold Fields being exceptional, it is not proposed to divest the Special Magistrate of the executive powers now vested in him.

4. To each District will be assigned, for the present, one Special Magistrate of the first class, who in addition to original cases triable by a first class Magistrate, will also dispose of such appeals as he may be empowered to hear.

All cases triable by second and third class Magistrates will be dealt with by Special Magistrates of the second class as also by Benches of Magistrates in places where it may be possible to constitute such Benches.

The Courts of the Special Magistrates of the first class to be newly established will be located at the head-quarters of the

various districts. The number location and territorial jurisdiction of the courts of Special Magistrates ~~of the second class~~, will, subject to any modifications which experience may dictate, be fixed tentatively as shown in the statement appended to this order District Magistrates will endeavour to equalise the work of these courts as far as practicable by occassional withdrawals and transfers of cases.

5. Assistant Commissioners. Amildars and Deputy Amildars will continue to be Magistrates ex-officio; but they will cease to exercise, ~~criminal~~ magisterial functions in practice except such as are really executive in their nature, as for instance those referred to in chapters VIII, IX, X, XI and XII of the Criminal Procedure Code.

6. The New Special Magistrates as also the three now in existence, will be included in the cadre of the Judicial Department, the pay of the first class Magistrates being the same as that of the Subordinate Judges (viz. Rs.500-50/2-600) and that of second class Magistrates the same as that of Munsiffs (viz. 150-200-50/3-400 per mensem). The officers immediately required to fill the places of Special Magistrates will, pending the elaboration of a suitable scheme of recruitment, be selected, partly from among the Members of the Bar and partly from among Assistant Commissioners, Munsiffs and Amildars and

Assistant Commissioners may also be temporarily appointed Magistrates for a period of 2 years or more and may be shown on the cadre of Assistant Commrs.

(150

7. Clerical establishments for the new Courts will be provided on the following scale:--

Establishment.	Salary per mensem.	Cost per annum.
1 Head Clerk on	Rs. 50/-	Rs. 600/-
1 Clerk "	" 35/-	" 420/-
1 clerk "	" 25/-	" 300/-
1 Clerk "	" 20/-	" 240/-

II. For the Courts of the Special Second Class Magistrates.

1 Head Clerk on	Rs. 40/-	Rs. 480/-
1 Clerk "	" 30/-	" 360/-
1 Clerk "	" 20/-	" 240/-

The menial establishment for each Court will consist of 1 Daffedar on Rs.8/- and 3 peons on Rs. 7/- each per mensem; and a sum of Rs. 200/. per annum will be provided on account of contingencies.

8 The cost of the scheme outlined above will be as shown below:--

	Per annum.
Pay of 8 Special Magistrates of the 1st Class at Rs.500 - 50/2 - 600 per mensem (566 2/3 x 8 x 12)	Rs.54,400/-
Pay of the 3 existing Magistrates of the 1st Class at Rs. 500 - 50/2 - 600 per mensem.	" 20,400/-
Pay of 24 Special Magistrates of the 2nd Class at 150-200-50/2-400 per mensem. (300 x 24 x 12).	" 86,400/-
Ministerial establishments of 8 1st Class Magistrates Courts at Rs.1,560 each (8 x 1560)	12,480/-
- do - of 24 2nd Class Magistrates' Courts at Rs. 1070 each(24 x 1070)	" 25,680/-

101

Menial

107

Menial establishments of 32 Courts at Rs. 348/- each.	Rs. 11,136
Contingencies for the 32 Courts at Rs. 200/- each	" 6,400/-
T o t a l.	~~Rs.xx,xx,xxx~~ Rs.2,16,896. per annum

Against this amount should be set off a sum of Rs. ~~41,340~~ 53940/- being the savings that may be effected in respect of the following items of expenditure as a result of the introduction of the new Scheme.

	Per annum.
(1) Pay of four Additional Assistant Commissioners sanctioned in May 1917 for 4 new Sub Divisions (4 x 350 x 12)	Rs. 16,800
(2) Pay of 68 Judicial gumastas of Taluk Office at Rs. 21¼ per mensem- (21¼ x 68 x 12)	" 17,340
(3) Pay of 16 Magisterial clerks of the Sub Division Offices at Rs.25 per mensem.(16 x 25 x 12)	" 4,800
(4) Pay of 8 clerks of the Deputy Commissioners' Offices engaged in Magisterial work at Rs.25 per mensem.	" 2,400
(5) Pay of the 3 existing Magistrates 150-50-450 (350 x 3 x 12)	" 12,600
T o t a l.	Rs. 53,940

The net total cost of the scheme will thus be Rs. 1,62,956.

11. The scheme as outlined above will for the sake of convenience be introduced in the first instance, that is to say, with effect from 1st January 1919, into the Districts of Bangalore and Shimoga and will be extended later on to the remaining districts of the State.

102

12. Deputy

(108

12. Deputy Commissioners,, Heads of Departments concerned and the Registrar of the Chief Court are requested to submit in good time beforehand all necessary proposals for orders including the draft of Notifications to be issued in regard to the constitution of the new Courts, the provision of buildings for their location, the the selection of officers and officials, and other matters incidental to the introduction of the new scheme.

The Efficiency Audit Officer will be entrusted with the duty of working out the practical details of the Scheme in consultation with the Deputy Commissioners, Heads of Departments concerned and the Registrar of the Chief Court with a view to bring it into operation from 1st January 1919.

Chief Secretary to Government.

To

The Registrar, Chief Court of Mysore.
" Revenue Commissioner in Mysore.
" Inspector-General of Police in Mysore.
" Chief Engineer of Mysore.
All Deputy Commissioners and District Magistrates.
The Comptroller, Mysore Government for II
" Other Heads of Departments.

Press Table.

NR.2.

(16)

Location and jurisdiction of criminal courts under the scheme of Separation of Judicial and Executive Functions.

District	Location of courts of Special Magistrates of First and Second Class	Territorial Jurisdictions
Shimoga	1 Special Magistrate 1st class. Shomoga	The whole district (1st class cases only)
	2 Special Magistrate, 2nd Class (i) Shimoga	The Taluks of Shimoga, Chennagiri, Thirthahalli, Kumsi (Sub-Taluk) and Honnaali.
	(II) Sagar.	The Taluks of Sagar, Sorab, Nagar and ~~Thirthahalli~~ Nikanpur.
Bangalore	1 City Magistrate Bangalore. 2 Special Magistrate, 1st class. Bangalore.	The 1st class cases of the whole District and the 2nd and 3rd class cases of the Taluks of Nelamangala, Devanahalli and Dodaballapur, to be distributed between the Courts.
	3 Special Magistrates 2nd class (I) Bangalore.	The Taluks of Bangalore, Hoskoté and Anekal.
	(II) Closepet.	The Closepet Sub Taluk and the Taluks of Chennapatna, Magadi and Kankanhalli.
Mysore	1 City Magistrate, Mysore	The First class cases of the Mysore city ~~and Taluk and the 1st, 2nd and 3rd class cases of the Mysore~~ Taluk.
	2 Special Magistrate, 1st class Mysore.	The 1st Class cases of the District (excluding the Mysore Taluk)
	3 Special Magistrate, 2nd class. (I) Mysore.	Mysore The Taluks of Malavalli, Hunsur, Yedathore and Heggadevanakote.
	(II) Mandya.	Malvalli The Taluks of Mandya, Krishnarajpet, Nagamangala and Srirangapatam and French-Rocks Sub-Taluk.
	(III) Nanjangud.	The Taluks of Nanjangud, T. Narasipur, Chamarajnagar and Gundlupet.
Tumkur	1 Special Magistrate, 1st Class. Tumkur.	The whole District (1st class cases only)
	2 Special Magistrate, 2nd Class. (I) Maddagiri.	The Taluks of Maddagiri, Pavagada and Sira and Kortagere sub-Taluk.
	(II) Tiptur.	The Taluks Tiptur and Chicknayakanahalli and Thuruveker sub Taluk.
	(III) Tumkur.	The Taluks of Tumkur, Gubbi and Kunigal

Location and jurisdiction of criminal courts under the Scheme of Separation of judicial & executive functions (tentative)

District	Location of courts of Special Magistrates of First & Second class.	Territorial Jurisdiction.
(1) Bangalore	1. City Magistrate, Bangalore 2. Special Magistrate, 1st class, Bangalore	The 1st class cases of the whole District and the 2nd & 3rd class cases of the Taluks of Nelamangala Devanahalli & Doddballapur, to be distributed between the courts.
	3. Special Magistrates, 2nd class (1) Bangalore	The Taluks of Bangalore, Hoskote and Anekal.
	(2) Closepet	The Closepet Sub-Taluk and the Taluks of Channapatna, Magadi & Kankanhalli.
Kolar	1. Special Magistrate, 1st class, Kolar	The whole district ex. cept the Kolar Gold Fields area. (1st class cases only)
	2. Special Magistrate, 1st class Kolar Gold Fields.	The Kolar Gold Fields.
	3. (1) Special Magistrate, 2nd class. Kolar Gold Fields	The Taluks of Bowringpet, Mulbagal & Malur.
	3. (2) ~~Special Magistrate~~, 2nd class, Kolar	The Taluks of Kolar, Srinivasapur & Chintamani
	4. (3) ~~Special Magistrate~~, 2nd class, Chikballapur	The Taluks of Chikballapur, Gowribidanur, Bagepalli, Sidlaghatta & the Gudibanda Sub-Taluk.
Tumkur	1. Special Magistrate, 1st class Tumkur.	The whole district (1st class cases only)
	2. Special Magistrate, 2nd class.	
	(1) Maddagiri	The Taluks of Maddagiri, Pavagada & Sira & Koratagere Sub-Taluk
	(2) Tiptur	The Taluks of Tiptur & Chiknayakanahalli & Turuvekere Sub-Taluk
	(3) Tumkur	The Taluks of Tumkur, Gubbi & Kunigal.

105

Mysore.	1. City Magistrate, Mysore	The 1st class cases of the Mysore City & Taluk.
	2. Special Magistrate, 1st class, Mysore	The 1st class cases of the district (excluding the Mysore Taluk).
	3. Special Magistrate, 2nd class	
	(1) Mysore	The Talukes of Mysore, Hunsur, Yedatore & Heggadadevankote.
	(2) Mandya	The Talukes of Malavalli, Mandya, Krishnarajpet, Nagamangala & Seringapatam & French Rocks Sub-Taluk
	(3) Nanjangud	The Talukes of Nanjangud, T. Narasipur, Chamarajnagar & Gundlupet
Hassan	1. Special Magistrate, 1st class Hassan.	The whole district (1st class cases only)
	2 Special Magistrate, 2nd class	The Talukes of
	(1) Hassan	Hassan, Manjarabad & Belur & Alur Sub-Taluk
	(2) Channarayapatna	The Talukes of Channarayapatna Arsikere, Holenarasipur & Koolal
Shimoga	1. Special Magistrate, 1st class Shimoga	The whole district (1st class cases only).
	2. Special Magistrate, 2nd class	
	(1) Shimoga	The Talukes of Shimoga, Chennagiri Tirthahalli & Honnali & Kumsi Sub-Taluk.
	(2) Sagar	The Talukes of Sagar, Sorab, Nagar & Shikarpur
Kadur	1. Special Magistrate, 1st class Chikmagalur	The whole district (1st class cases only)
	2. Special Magistrate, 2nd class	
	(1) Chikmagalur	The Talukes of Chikmagalur Mudgere & Koppa
	(2) Tarikere	The Talukes of Tarikere & Kadur & Narasimharajapura Sub-Taluk

106

Chitaldrug	1. Special Magistrate 1st class, Chitaldrug	The whole district (1st class cases only).
	2. Special Magistrate, 2nd class	
	(1) Chitaldrug	The Taluks of Chitaldrug Hiriyur, Challakere & Molakalmuru
	(2) Davangere	The Taluks of Davangere, Holalkere, Honnadurga & Jagalur & Harihar Sub-Taluk.

Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. J. 4550-4600—Cts. 312-12-1, dated 10th May 1918.

Judicial and Executive Functions.

Sanctions the scheme for the separation of —— in the State.

WD A2231—GPB—14-5-18—470

S. O.

Judicial and Executive Functions.

No. J. 4550-4600—Cts. 312-12-1, dated 10th May 1918.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENTS.

Order No. J. 4550-4600—Cts. 312-12-1, dated 10th May 1918.

The Government are of opinion that it will tend on the whole to a better and prompter administration of Criminal Justice if the duty of trying cases is assigned as far as possible to officers whose attention is not distracted by other important and heavy work. A beginning in this respect was made several years ago by the appointment of whole-time Magistrates for the cities of Bangalore and Mysore and the Kolar Gold Fields, and more recently by the constitution of Benches of Magistrates for various localities. The time appears to be ripe for taking a further step in the same direction in order to afford a very necessary measure of relief to executive officers and to ensure a more efficient despatch of criminal work.

2. At present, besides the Chief Court and the Sessions and Assistant Sessions Judges who belong to the purely judicial service, the agency available for the trial of criminal cases and appeals consists of the following officers borne on the executive cadre :—

(i) Eight District Magistrates, who are also Deputy Commissioners of Districts.

(ii) Three full-time 1st Class Magistrates for the cities of Bangalore and Mysore and the Kolar Gold Fields.

(iii) Twenty-one other First Class Magistrates, who are also Assistant Commissioners in charge either of Revenue Sub-Divisions or of treasuries.

(iv) Fifty-five 2nd Class Magistrates, of whom three are Assistant Commissioners, three are Munsiffs, and the rest Amildars.

(v) Thirty 3rd Class Magistrates, of whom two are Probationary Assistant Commissioners, eighteen are Amildars and the rest Deputy Amildars.

3. The Government have decided after careful consideration to provide a separate agency for the disposal of the mass of original criminal work that is now being done by Magistrates of all classes other than the three full-time Magistrates of the first class already available, as referred to above, and also the Munsiff-Magistrate of the Kolar Gold Fields, who will continue as heretofore.

They do not, however, think it desirable to divest the executive heads of districts altogether of their appellate powers and powers of revision and superintendence. No material change is therefore contemplated with regard to the position and functions of the District Magistrates.

At the same time these Officers have not, as a rule, done much original criminal work in the past, and hereafter they will not be expected to try any original cases other than such as for special reasons may be withdrawn by themselves or transferred to their file from the Courts of other Magistrates. As regards appellate work also, the Special Magistrates, 1st class, will be duly empowered to hear appeals from the decisions of 2nd and 3rd class Magistrates, wherever the original work is not very heavy. The conditions prevailing in the Kolar Gold Fields being exceptional, it is not proposed to divest the Special Magistrate of the executive powers now vested in him.

4. To each district will be assigned, for the present, one Special Magistrate of the 1st class, who, in addition to original cases triable by a 1st class Magistrate, will also dispose of such appeals as he may be empowered to hear.

5. All cases triable by 2nd and 3rd class Magistrates will be dealt with by Special Magistrates of the 2nd class as also by Benches of Magistrates in places where it may be possible to constitute such Benches.

The Courts of the Special Magistrates of the 1st class to be newly established will be located at the headquarters of the various districts. The number, location and territorial jurisdiction of the courts of Special Magistrates, will, subject to any modifications which experience may dictate, be fixed tentatively as shown in the statement appended to this order. District Magistrates will endeavour to equalise the work of these courts as far as practicable by occasional withdrawals and transfers of cases.

Assistant Commissioners, Amildars and Deputy Amildars will continue to be Magistrates *ex-officio*; but they will cease to exercise magisterial functions in practice except such as are really executive in their nature, as for instance those referred to in Chapters VIII, IX, X, XI and XII of the Criminal Procedure Code.

6. The new Special Magistrates as also the three now in existence, will be included in the cadre of the Judicial Department, the pay of the 1st class Magistrates being the same as that of the Subordinate Judges, (*viz.*, Rs. 500—$\frac{50}{2}$—600) and that of 2nd class Magistrates the same as that of Munsiffs, (*viz.*, 150—200—$\frac{50}{3}$—400 per mensem). The officers immediately required to fill the places of Special Magistrates will, pending the elaboration of a suitable scheme of recruitment, be selected, partly from among Assistant Commissioners, Munsiffs and Amildars and partly from among the members of the Bar. Assistant Commissioners may also be temporarily appointed Magistrates for a period of two years or more and may be shown as seconded in the cadre of Assistant Commissioners.

Clerical establishments for the new Courts will be provided on the following scale :-

I.—For the Courts of the Special Magistrates of the First Class.

Establishm	Salary per mensem.	Cost per annum.
	Rs.	Rs.
1 Head Clerk on ...	50	... 600
1 Clerk ...	35	... 420
1 Clerk ,, ...	25	... 300
1 Clerk ,, ...	20	... 240

II.—For the Courts of the Special Magistrates of the Second Class.

Establishment.	Salary per mensem.	Cost per annum.
	Rs.	Rs.
1 Head Clerk on ...	40	... 480
1 Clerk ,, ...	30	... 360
1 Clerk ,, ...	20	... 240

The menial establishment for each Court will consist of 1 Daffedar on Rs. 8 and 3 peons on Rs. 7 each per mensem; and a sum of Rs. 200 per annum will be provided on account of contingencies.

8. The cost of the scheme outlined above will be as shown below :—

	per annum. Rs.
Pay of 8 Special Magistrates of the 1st class at Rs. 500—$\frac{50}{2}$—600 per mensem (566$\frac{2}{3}$ × 8 × 12)	54,400
Pay of the 3 existing Magistrates of the 1st class at Rs. 500—$\frac{50}{2}$—600 per mensem	20,400
Pay of 24 Special Magistrates of the 2nd class at 150—200—$\frac{50}{3}$—400 per mensem. (300 × 24 × 12)	86,400
Ministerial establishments of 8 1st class Magistrates' Courts at Rs. 1,560 each (8 × 1,560)	12,480
Ministerial establishment of 24 2nd class Magistrates' Courts at Rs. 1,070 each (24 × 1,070)	25,680
Menial establishments of 32 Courts at Rs. 348 each	11,136
Contingencies for the 32 Courts at Rs. 200 each	6,400
Total per annum ...	2,16,896

Against this amount should be set off a sum of Rs. 53,940 being the saving may be effected in respect of the following items of expenditure as a result of introduction of the new Scheme.

	Per annum. Rs.
(1) Pay of four Additional Assistant Commissioners sanctioned in May 1917 for 4 new Sub-Divisions (4×350×12)	16,800
(2) Pay of 68 Judicial gumastas of Taluk Offices at Rs. 21½ per mensem (21½×68×12)	17,340
(3) Pay of 16 Magisterial clerks of the Sub-Division Offices at Rs. 25 per mensem (16×25×12)	4,800
(4) Pay of 8 clerks of the Deputy Commissioners' Offices engaged in Magisterial work at Rs. 25 per mensem	2,400
(5) Pay of the 3 existing Magistrates 250—$\frac{50}{3}$—450 (350×3×12)	12,600
Total	53,940

10. The net total cost of the scheme will thus be Rs. 1,62,956.

11. The scheme as outlined above will for the sake of convenience be introduced in the first instance, that is to say, with effect from 1st January 1919, into the districts of Bangalore and Shimoga and will be extended later on to the remaining districts of the State.

12. Deputy Commissioners, Heads of Departments concerned and the Registrar of the Chief Court are requested to submit in good time beforehand all necessary proposals for orders including the draft of Notifications to be issued in regard to the constitution of the new Courts, the provision of buildings for their location, the selection of officers and officials, and other matters incidental to the introduction of the new scheme.

13. The Efficiency Audit Officer will be entrusted with the duty of working out the practical details of the Scheme in consultation with the Deputy Commissioners, Heads of Departments concerned and the Registrar of the Chief Court with a view to bring it into operation from 1st January 1919.

C. S. BALASUNDARAM IYER,
Chief Secretary to Government.

To—The Registrar, Chief Court of Mysore.
The Revenue Commissioner in Mysore.
The Inspector-General of Police in Mysore.
The Chief Engineer of Mysore.
All Deputy Commissioners and District Magistrates.
The Comptroller, Mysore Government.
Other Heads of Departments:
PRESS TABLE.

Exd—C.

No. J. 4550-4600— CTS. 312-12-1, DATED 10TH MAY 1918.

Location and jurisdiction of Criminal Courts under the scheme of separation of judicial and executive functions. (Tentative)

District	Location of Courts of Special Magistrates of First and Second class	Territorial jurisdiction
Bangalore	1. City Magistrate, Bangalore	The 1st class cases of the whole district and the 2nd and 3rd classes of the taluks of Nelamangala, Devanhalli and Dodballapur to be distributed between the Courts.
	2. Special Magistrate, 1st class, Bangalore.	
	3. Special Magistrate, 2nd class.	
	(1) Bangalore	The taluks of Bangalore, Hoskote and Anekal.
	(2) Closepet	The Closepet Sub-Taluk and the Taluks of Channapatna, Magadi and Kankanhalli.
Kolar	1. Special Magistrate, 1st class, Kolar ...	The 1st class cases of the whole district except the Kolar Gold Fields.
	2. Special Magistrate, 1st class, Kolar Gold Fields.	The Kolar Gold Fields.
	3. Special Magistrate, 2nd class.	
	(1) Kolar Gold Fields ...	The taluks of Bowringpet, Mulbagal and Malur.
	(2) Kolar	The taluks of Kolar, Srinivaspur and Chintamani.
	(3) Chikballapur	The taluks of Chikballapur, Goribidnur, Bagepalli, Sidlaghatta and the Gudibanda Sub-Taluk.
Tumkur	1. Special Magistrate, 1st class, Tumkur.	The whole district (1st class cases only).
	2. Special Magistrate, 2nd class.	
	(1) Maddagiri	The taluks of Maddagiri, Pavagada, Sira and Koratagere Sub-Taluk.
	(2) Tiptur	The taluks of Tiptur and Chiknayakanhalli and Turuvekere Sub-Taluk.
	(3) Tumkur	The taluks of Tumkur, Gubbi and Kunigal.
Mysore	1. City Magistrate, Mysore ...	The 1st class cases of the Mysore City and taluk.
	2. Special Magistrate, 1st class, Mysore	The 1st class cases of the district (excluding the Mysore Taluk).
	Special Magistrate, 2nd class	
	(1) Mysore	The taluks of Mysore, Hunsur, Yedatore and Heggaddevankote.
	(2) Mandy ...	The taluks of Malvalli, Mandya, Krishnarajpete, Nagamangala and Seringapatam and French Rocks Sub-Taluk.
	(3) Nanjangud ...	The taluks of Nanjangud, T.-Narsipur, Chamrajnagar and Gundlupet.
Hassan	1. Special Magistrate, 1st class, Hassan.	The whole district (1st class cases only).
	2. Special Magistrate, 2nd class.	
	(1) Hassan	The taluks of Hassan, Manjarabad and Belur and Alur Sub-Taluk.
	(2) Channarayapatna ...	The taluks of Channarayapatna, Arsikere, Hole-Narsipur and Arkalgud.

No. J. 4550-4600—Cts. 312-12-1, dated 10th May 1918.

Location and Jurisdiction of Criminal Courts—*concld.*

District	Location of Courts of Special Magistrates of First and Second class	Territorial jurisdiction
Shimoga ...	1. Special Magistrate, 1st class, Shimoga.	The whole district (1st class cases only).
	2. Special Magistrate, 2nd class.	
	(1) Shimoga	The taluks of Shimoga, Channagiri, Tirthahalli and Honnali and Kumsi Sub-Taluk.
	(2) Sagar	The taluks of Sagar, Sorab, Nagar and Shikarpur.
Kadur	1. Special Magistrate 1st class, Chikmagalur.	The whole district (1st class cases only).
	2. Special Magistrate, 2nd class.	
	(1) Chikmagalu	The taluks of Chikmagalur, Mudgere and Koppa.
	(2) Tarikere	The taluks of Tarikere and Kadur and Narasimharajapura Sub-Taluk.
Chitaldrug	1. Special Magistrate, 1st class, Chitaldrug.	The whole district (1st casesclass only).
	2. Special Magistrate, 2nd class.	
	(1) Chitaldrug	The taluks of Chitaldrug, Hiriyur, Challakere and Molakalmuru.
	(2) Davangere	The taluks of Davangere, Holalkere, Hosdurga and Jagalur and Harihar Sub-Taluk.

No. 1845

SUBJECT No. 147.

eparation of executive and judicial functions.

Messrs. H. V. Rangasami and B. Alasingrachar, Hassan taluk; B. Suryanarayana Rao and N. S. Nanjundaiya, Hassan Municipality; and A. Narayana Iyengar, Hassan District Agricultural and Industrial Association.

Summary of discussion.—The separation of judicial and executive functions may be given effect to in this district.

Reply of Government.—Under consideration.

GEN. & REV. SECRETARIAT
III
7 FEB 1918

Subd

The file on the subject seems to be with the Asst Secy.

vide note on 1, in case file

(189)

DIARY No. J1834.

SUBJECT No. 72.

(1) Separation of Judicial and Executive functions.

(2) Appointment of Sub-Magistrates.

Messrs. 1. (a) Shama Rao, Shimoga taluk; P. Venkappaiya, Shimoga Municipality, and A. Ananthaiya, Nagar Sabha; (b) Dodda Subba Reddi and Mahomed Khan, Kolar District Board; (c) P. Shama Rao, Seringapatam Municipality and M. S. Krishna Rao, Bar Association, Mysore.

2. N. Bheema Rao, Channagiri taluk.

GEN. & REV. SECRETARIAT III. JUDICIAL 7-FEB 1918

Summary of discussion.—1. (*a*) Immediate steps may be taken to separate judicial and executive functions as divesting all Amildars of magisterial functions has become absolutely necessary on account of the very heavy work in the Revenue, Police and the Economic Departments.

(*b*) The scheme of separating judicial and executive functions, when brought into effect, may be tried in the Kolar District.

(*c*) While separating the judicial and executive functions, Amildars may be divested of their connection with the Police.

2. Sub-Magistrates may be appointed to attend to criminal work in taluks.

Reply of Government.—Under consideration. Any suggestions for consideration may be addressed to the Chief Secretary to Government.

Subd

The file on the Subject seems to be with the Asst Secretary.

Asst 15/2

The question is under consideration in Criminal.

15/2/12